

NMC response to the Home Office's call for evidence on mandatory reporting of child sexual abuse

07 August 2023

About the NMC

Q1: To help us analyse our responses, could you please tell us in what capacity you are responding to this consultation.

Select all that apply:

- Child or young person under age 18
- Care leaver
- Birth parent
- Adoptive parent
- Foster carer
- Social Worker
- Family support worker
- Charity / voluntary sector
- Educational institution (e.g. early years setting, school, alternative provision setting, college, university)
- Sport sector • Academic
- Health practitioner
- Police officer
- Youth justice worker
- Probation officer
- Other

We are the UK's independent, statutory regulator of around 788,000 nursing and midwifery professionals. Our vision is safe, effective and kind nursing and midwifery practice that improves everyone's health and wellbeing.

Our core role is to regulate. First, we promote high education and professional standards for nurses and midwives across the UK, and nursing associates in England. Second, we maintain the register of professionals eligible to practise. Third, we investigate concerns about nurses, midwives and nursing associates – something that affects less than one percent of professionals each year. We believe in giving professionals the chance to address concerns, but we'll always take action when needed.

To regulate well, we support our professions and the public. We create resources and guidance that are useful throughout people's careers, helping them to deliver our standards in practice and address new challenges. We also support people involved in our investigations, and we're increasing our visibility so people feel engaged and empowered to shape our work.

Regulating and supporting our professions allows us to influence health and social care. We share intelligence from our regulatory activities and work with our partners

to support workforce planning and sector-wide decision making. We use our voice to speak up for a healthy and inclusive working environment for our professions.

Q2. If you are responding on behalf of an organisation, what is your role within that organisation?

Select one from:

- Front line worker
- Manager
- **Senior leader (Director, Chief Executive)**
- Corporate / Administrative

Q3. We know that we deliver better services when we receive feedback from a full range of backgrounds and experiences in the society we serve. We would be grateful if you could complete the following diversity questions. You can select 'prefer not to disclose' if you would rather not answer any question.

NA – responding as an organisation

Q4. In sharing findings from this consultation, may we quote from your response?

Select one from:

- Yes – anonymously
- **Yes – attribute to my organisation**
- No

Section 1: who should the duty 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
- **None of the above**

Firstly, we would like to thank you for the opportunity to provide our views on the proposal to introduce a mandatory duty to report child sexual abuse. Child sexual abuse is an abhorrent crime, and we unequivocally support and share government's commitment to tackling this issue in all its forms.

While we support government's intention, we are concerned that there are some inherent risks associated with mandatory reporting which must be taken into account when considering whether or not to implement the duty. These risks are discussed

throughout our response, and we would welcome further clarity from government about how they will be mitigated.

As identified by the Independent Inquiry into Child Sexual Abuse (the inquiry), by the nature of their role, individuals working in a regulated activity are likely to become aware of allegations or indicators of child sexual abuse. However, while we agree that health and care professionals are uniquely placed to help combat child sexual abuse, we are not convinced that placing a mandatory reporting duty on them would add any significant value. This is because, while there is currently no legal requirement to report child sexual abuse in England, regulated health and care professionals already have a professional responsibility to report safeguarding concerns.

Our Code - which sets out the core standards of practice and behaviour for nurses, midwives and nursing associates – makes clear that registrants are expected to report and take action if they have concerns about the safety or welfare of children. In particular, the section 17 requires registrants to:

- (17.1) take all reasonable steps to protect people who are vulnerable or at risk from harm, neglect or abuse
- (17.2) share information if you believe someone may be at risk of harm, in line with the laws relating to the disclosure of information
- (17.3) have knowledge and keep to the relevant laws and policies about protecting and caring for vulnerable people

In addition, registrants must not only work within the Code but also comply with other national standards and guidelines. This includes following existing statutory guidance in England – ‘Working Together to Safeguard Children’ - which requires individuals to report any concerns about a child’s welfare to the local authority. We are clear that departure from our standards or other existing statutory frameworks may result in fitness to practise procedures being instigated.

Considering existing reporting obligations, we have reservations about whether an additional mandatory duty would add any further benefit. To support the case for mandatory reporting, we would be interested in whether an evaluation of other recently introduced reporting duties - for example the mandatory reporting of Female Genital Mutilation – has been undertaken and whether this has indicated an increase in appropriate concerns being raised and actioned. We would also welcome very clear examples of how the duty would work in practice including how it would interact with existing regulatory and statutory requirements.

Notwithstanding the above, if mandatory reporting is introduced it’s essential that those considered ‘mandatory reporters’ are carefully and clearly defined so that individuals are aware of and understand the additional expectations placed on them. This will be particularly important should criminal liability be attached to the duty.

To be effective, mandated reporters must have the relevant skills, knowledge and training to identify and respond to incidents of child sexual abuse. However, as highlighted by the Inquiry, recognising indicators of child sexual abuse can be challenging - particularly for those that are newly qualified with perhaps limited

experience in child protection, or for those who have not received appropriate training. As such, it is essential that individuals within scope of the duty receive regular and appropriate training to enable them to meet their reporting requirements. To support this, we strongly believe that organisations should also be placed under a duty to provide sufficient training for mandated reporters, and that any failure to do so should be taken into account and when considering individual liability. This will help prevent individuals from being penalised for organisational failures outside their control.

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?

If a mandatory reporting duty is introduced, we strongly advocate for it to be implemented at both an individual and organisational level in recognition of the essential part organisations will play in ensuring effective implementation. As highlighted above, we also believe that there should be an organisational duty to provide staff with the relevant training who are subject to the duty, so that they have the skills and knowledge to effectively meet their individual reporting responsibilities.

Reasons for not reporting concerns can be complex and multifaceted, but it is important that individuals are not inadvertently penalised or held accountable for institutional failings beyond their control. As demonstrated by recent high-profile inquiries into major failings in care, if an individual fails to report a concern it can often be attributed to the culture of an organisation as opposed to it being a conscious decision not to speak out. Institutional barriers, including confusing or complex procedures for handling reports, were also highlighted in the final report of the Independent Inquiry into Child Sexual Abuse as a prominent reason for individuals failing to raise concerns.

Organisations will therefore play an integral role in enabling professionals to meet any new reporting duty, by creating an environment which encourages openness and professionalism, and which gives individuals the confidence to report their concerns. They will also have a responsibility to make sure staff have sufficient training to identify the abuse, understand their reporting duties, and for implementing effective processes for raising and escalating concerns. We strongly believe that any reporting system must address and reflect the responsibility of organisations to support their staff and to ensure reports are made and escalated as necessary.

As highlighted in the call for evidence, many organisations already have existing duties and requirements which a mandatory reporting duty will interact with. While we

do not have a view on which organisations a duty should apply to specifically, it's important that any new reporting system takes existing duties into account and aligns with them where possible. We would urge government to avoid having different reporting systems and processes that would operate in parallel, as doing so risks creating an overly complex and duplicative system where different reporting requirements might become obscured. There is also a risk that additional mandatory reporting requirements could overburden organisations, which would undermine the overall effectiveness of reporting and could result in cases either being overlooked or delayed.

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 the respondent selected 'yes'] what form should that reporting take?

If mandatory reporting is introduced at an organisational level, we agree that organisations should be required to annually report on their activity. As highlighted by the inquiry, reporting across England on child sexual abuse is typically low which inhibits our ability to fully understand the nature and scale of the problem. Annual reporting will help address this issue. It will also be important for helping evaluate the effectiveness of implementation and help inform subsequent policy making at a national and local level.

We believe that data on the operation of the mandatory reporting scheme should be collected and published externally to inform wider policy making. However, by their very nature these reports will include highly sensitive information. Steps must be taken to protect the confidentiality of all those involved including the child, the alleged perpetrator and the individual that raised the initial concern.

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?

If a new mandatory reporting system is introduced, the scope of the duty must be carefully considered and take into account existing regulatory and statutory reporting obligations.

As highlighted elsewhere in this response, our Code already places a responsibility on the professions we regulate to report and take action if they believe a person is at risk and needs extra support and protection. Our standards are broadly drafted to cover all forms of abuse and neglect - not just child sexual abuse – which means that our expectations are clear and consistent and avoid creating different standards in obligation. Therefore, if mandatory reporting is introduced, we suggest that rather than proceeding with mandatory reporting for child sexual abuse in isolation, government should explore a mandatory system in the round for abuse and neglect more widely. This would align more closely with existing professional obligations and help avoid discrepancies in approach.

If the duty only applies to instances of child sexual abuse, we recognise that this leaves open the possibility that additional reporting duties could be introduced for other forms of abuse or neglect in the future. However, different reporting systems and processes that operate in parallel would be undesirable and confusing and we would discourage government from going down this route. If separate mandatory duties are introduced, further clarification will be needed about how they will interact with existing mandatory reporting duties to avoid creating a complex system with multiple obligations and responsibilities.

We are also concerned that introducing a mandatory system for child sexual abuse alone could inadvertently create a hierarchy in which other forms of child abuse could be perceived as less serious and consequently go under-reported. We agree that child sexual abuse will always be sufficiently serious to report, however, some incidents of physical or emotional abuse or neglect can be just as serious, if not more. Focusing on child sexual abuse would also create undesirable differences for sexual abuse perpetrated against adults - including vulnerable adults and young people - which will be just as serious with equally devastating consequences for the victim. We believe that extending the reporting duty to cover other forms of abuse and neglect would help avoid creating these somewhat arbitrary distinctions and hierarchical structures, while also sending a clear signal that no form of abuse or neglect will be tolerated.

That being said, we do have concerns about the fundamental premise upon which mandatory duties are based, and about the potential implications of removing professional judgement from disclosure decisions. As noted elsewhere in our response, one of the core principles in our Code is that a registrant's primary concern must be the best interest of their patients. Registrants must be able to use their professional judgement to decide the best course of action for a child, which a mandatory duty might conflict with. For example, there may be circumstances where a professional may believe that it is in the child's best interest to work in partnership with the family and the child to discuss their concerns rather than to immediately report the issue externally. Therefore, in constructing the new duty, care will be needed to ensure that nursing and midwifery professionals and other mandated reporters are able to maintain their professional discretion so that they can take individual circumstances into account. We would welcome further clarification on the Government's intentions to ensure that a mandatory approach will not have the effect of diminishing individual professional discretion and in particular the current professional duty to put the interests of their patients and service users first.

To support professionals' decision making, we would encourage the development of detailed supporting guidance that provides either an exhaustive or non-exhaustive list of different injuries or abuses that would be considered most serious and that would need to be reported in line with the duty. The different forms of abuse must be clearly and carefully defined so that professionals know what is expected of them and what is within scope. Extending the scope too broadly could risk an increase in referrals that are not appropriate, and which would not meet the required threshold for local authorities or police to act.

Should government wish to consider extending a new statutory measure to other forms of abuse and neglect, we firmly believe that this would require a separate and full public consultation to allow for a thorough analysis of the risks and benefits associated. We welcome the opportunity to support government with this in any way that we can.

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
- Individuals within scope of the duty reporting known / suspected incidents
- Organisations within scope of the duty reporting known / suspected incidents
- Individuals outside the scope of the duty reporting known / suspected incidents
- Organisations outside the scope of the duty reporting known / suspected incidents
- Agencies in the wider safeguarding system that are required to respond to reports of abuse.
- Members of the public

We fully support and share government's ambition to tackle and prevent child sexual abuse. However, we believe that there are some inherent risks associated which will need to be properly assessed when considering whether or not to implement the duty. At present, we believe that the potential risks outweigh the benefits, and we would welcome further clarity from government about how these will be mitigated.

Firstly, with regards to children or young people choosing to make a disclosure, we are concerned that a mandatory reporting duty could risk undermining the trust and confidence between victims and service providers, and that it could act as a deterrent to children seeking support. We agree that disclosures of child sexual abuse should be acted upon and reported. However, sometimes the child or young person may want, or need, a safe space to discuss what's happening to them without the fear of wider repercussions for either themselves or the abuser. Trust and confidentiality are central to the professional-patient relationship. Without this, children may avoid making disclosures – particularly if they think the information will be disclosed without their consent, or without the ability to exercise some control over when, and to who, the report will be made.

In relation to regulated health and care professionals, we are concerned that mandatory reporting will result in reporting decisions being driven by a process rather

than because it is the best course of action for the child. This would be contrary to our professional standards, which require professionals to always act in the best interest of the patient and to use their professional judgement to determine the best course of action. The core purpose of the mandatory reporting duty is to protect children and young people from harm, and it's essential that this remains the prime focus of any professional's decision making.

If introduced, the mandatory reporting duty would only apply to professionals working in England which could risk creating a complex system with unclear obligations for those working across borders. Furthermore, this would result in a system where registrants in England are subject to additional reporting requirements and potentially exposed to criminal sanctions that are inconsistent with elsewhere in the UK. In the interest of fairness and clarity, we would urge government to avoid having different standards of obligation and reporting requirements for professionals across the UK.

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)

It is essential that the level of knowledge for a duty to apply is clearly defined so that individuals understand when the duty has been triggered and what is expected of them.

If a mandatory duty is introduced, we agree that known incidents of child sexual abuse should be reported. However, restricting the duty to only known incidents implies that the reporter must be completely satisfied that the report being made is true. This is an high threshold which would be difficult to satisfy in practice, as it would likely be limited to situations where the reporter has either witnessed the abuse first hand or has received a confession from the perpetrator. We strongly oppose any approach that could risk disclosures or known indicators of abuse being ignored or overlooked. As identified by the Inquiry, restricting the duty to known incidents could also invite individuals to undertake their own investigations to get assurance that what has either been disclosed or witnessed is true. This could prevent individuals from taking immediate action where required, thereby placing the child at risk of further harm.

Considering the above, we agree with the inquiry that a mandatory duty should apply to both known and suspected incidents of abuse. We believe that this will better support the policy intent by helping ensure all incidents are appropriately acted upon. This approach also aligns more closely with our professional standards, which require individuals to raise concerns 'if they believe' a person is vulnerable or at risk. We believe this is a much more appropriate and realistic level of knowledge, while providing individuals with flexibility to exercise their professional judgement to determine whether the circumstances require a response.

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

Should a mandatory duty to be introduced, it will need to be clearly and carefully worded so that individuals and / or organisations know when they have discharged their duty.

Under the Children's Act 2004 organisations already have a duty to ensure their functions have due regard to the need to safeguard children. The Working Together to Safeguard Children guidance also sets out arrangements that organisations subject to the duty should have in place, including clear whistleblowing procedures, escalation policies and a designated practitioner for child safeguarding. This means that organisations should already have procedures in place for reporting child protection concerns, which employees would be expected to follow.

Considering the above, we believe that any disclosure by an individual to a designated lead, line manager or through any other existing organisational process should be considered a disclosure and should be sufficient for an individual to have discharged their duty, unless there are serious contextual factors that would suggest otherwise. This will be particularly important for those in lower-grade or support roles, who would be required to raise concerns with a senior or specialist colleague in the first instance rather than making a report directly with the police or local authority.

If the duty is introduced in legislation, this will need to be clearly and carefully worded so that individuals know when they have discharged their duty. We would welcome further clarity from government about whether there would be a responsibility to continue to escalate concerns to the next level of authority after an initial report has been made. If so, the reporting routes and lines of accountability must be made expressly clear.

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]

NA

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]

NA

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

We strongly disagree with the proposal that a breach of the mandatory duty should constitute a criminal offence on the basis that it could undermine just cultures, which are important for safety, and it could prompt unwanted behaviours. Unfortunately, mistakes can happen and sometimes reports might accidentally not be made. If this happens it's essential that individuals have the confidence to speak out in order to rectify and learn from the mistake. Attaching criminal sanctions could directly undermine this by creating a culture of fear, blame and defensiveness where people hide things that go wrong. We strongly oppose penalising individuals for inadvertent mistakes, particularly those which may in part be driven by organisational failings outside an individual's control.

For the same reasons, if a criminal offence is introduced, it is important that it is not a strict liability offence: it's important that individuals are not disproportionately penalised for honest mistakes. If sanctions are imposed, they should only be applied in the most serious of cases, for example, where there is a deliberate or conscious decision not to report known instances of child sexual abuse. We would welcome greater clarity from government about this point.

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

As set out in our governing legislation – the Nursing and Midwifery Order 2001 - we operate a fitness to practise process which allows us to investigate and take action where a concern has been raised that a registrant has not met our standards for safe and effective practice.

The purpose of our fitness to practise process is to manage the risk that a nurse, midwife or nursing associate might pose to members of the public in the future. It is not about punishing people for past events - nor should it be. Our processes are focused on assessing whether an individual's fitness to practise is impaired, which means that even where there has been a genuine mistake and someone has failed to make a report, we may not need to take regulatory action if we are confident that there is no longer a risk to patient safety.

As a professional regulator, we have a range of sanctions available to us which allow us to take fair and proportionate decisions. If a finding of impaired fitness to practise was made, the appropriate level of a sanction would depend on several factors. Failure to report child abuse might indicate misconduct on the part of a nurse or midwife but would not necessarily result in a sanction if their fitness to practise was not deemed to be impaired. The level of sanction would be dependent on the specifics of the case. For instance, there may have been extenuating circumstances,

or it may have been a one-time failure where the professional has demonstrated insight into what went wrong and is unlikely to make the same mistake again. However, in cases of someone deliberately or negligently failing to report child abuse, we would be likely to take regulatory action in the interests of safety and public confidence in the professions.

As with our own fitness to practise approach, there must be consideration of proportionality when deciding what sanctions should attach to the reporting duty. We would urge particular caution before considering the route of introducing criminal sanctions, automatic professional disqualification or barring which could be seen as an overly punitive and inflexible approach.

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

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

- **Yes**
- No
- Don't know

While we agree that an exception should exist to avoid capturing consensual peer relationships, we are concerned that the wording of this exception, as currently drafted, is not clear and could have negative implications.

Firstly, we are concerned that the current focus on age could create a two-tier system where indicators of child sexual abuse amongst teenagers and young people are ignored, despite being vulnerable to exploitation and abuse. If introduced, the exception must be carefully worded to make clear that only peer relationships with a small difference in age can be consensual. It must also make clear that even in peer relationships with only a small difference in age, any indication of abuse or coercion must be reported.

We are also concerned that this exception does not go far enough to protect vulnerable people over the age of 16 who - though legally of the age to consent to sexual activity - may have a disability and / or lack capacity to make decisions by themselves. These individuals may be particularly vulnerable to abuse and exploitation and demonstrate that there is no clear line between adulthood and childhood.

For example, though the age of majority in England is 18, the age at which a person's care is transferred from children's to adults can vary across health and care services. While typically most children will transition to adult services when they are 18, others

with special care needs may continue to be supported by paediatric services until they are 25. All local authorities in England are also under a legal requirement to provide local resource for children and young people from birth to 25. These provisions demonstrate that vulnerabilities and the need for extra protection will often extend beyond the age of 16 and it is important that these groups are not overlooked. Accordingly, we believe that the exception could be expanded to include greater detail about how differences in mental capacity should be considered. We recognise that this is a complicated area and would welcome accompanying guidance to support individuals and their decision making.

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

We oppose introducing a mandatory reporting duty with criminal sanctions. However, if government does decide to proceed in this way, we strongly agree that a failure to make a report after observing recognised indicators should not bring a criminal sanction. Identifying indicators of abuse can be difficult and is comparatively much more complicated than witnessing or receiving a disclosure. Individuals should not be penalised for failing to identify known indicators, particularly if they have not received the appropriate training and support to enable them to do so.

If sanctions are introduced, it's important that any reasons for not reporting are properly considered and reflected in any sanction imposed, which includes taking into account the context in which the individual was working. This aligns with our own fitness to practise approach and will help prevent individuals from being penalised for failing to make report because of organisational barriers outside of their control. Other factors including the individual's role, level of seniority and scope of practice should also be considered.

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 strongly support and share government's aim to tackle and prevent child sexual abuse. However, we are concerned about how a mandatory reporting duty would interact with our own professional standards and the potential impact on registrant's ability to exercise their professional judgement when making disclosure decisions.

As highlighted elsewhere in this response, our Code already requires registrants to report safeguarding concerns and to work in line with national standards and guidance on child protection. However, acting in the best interest of patients is also a

core principle embedded throughout our Code. In practice, this requires professionals to use their professional judgment to determine the best course of action for the child involved, taking into account the specific circumstances of each case. We agree that child sexual abuse should be reported. However, there may be exceptional circumstances where doing so may not be in the child's best interest and where a more nuanced response is required.

Mandatory reporting, by its very nature, will always be a relatively blunt tool that leaves little room for any element of professional judgment. By comparison, our standards are broadly drafted to enable professionals to exercise their professional judgement to determine the best course of action. This helps place the child's best interest at the centre of the decision making as opposed to decisions being guided by process and procedure. We would therefore welcome further clarity from government about how any mandatory duty will interact with and not diminish this professional duty.

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

We are concerned that the mandatory reporting duty could exacerbate disparities for minoritised children and young people. As an example, according to the NSPCC, children from Black, Asian and minoritised ethnic groups can be overrepresented in the child protection system as a result of underlying racism, stereotypes and biases of reporters, which mandatory reporting could make worse. At the same time, as identified by the Inquiry, underlying biases could result in mandated reporters dismissing child protection concerns amongst certain groups of children as differences in culture. The adultification of Black, Asian and minoritised ethnic children is also a particular concern, as these children may be incorrectly perceived as being less vulnerable to abuse, resulting in concerns being either missed or ignored.

To help prevent exacerbating these disparities, it's essential that all mandated reporters receive appropriate training in child protection, which must include learning specifically targeted at addressing underlying biases and understanding how prejudices and bias might impact safeguarding decisions. This must also include elements such as cultural competencies and nuancing, to prevent criminalising or disadvantaging certain groups due to their culture being misunderstood. We would welcome the opportunity to support the development of this training if agreed.

We welcome the government's exploration of potential equalities considerations, and we strongly encourage government to keep this under assessment. We would expect any mandatory reporting system to be informed by a comprehensive equality impact assessment, drawing on research and engagement with a diverse range of stakeholders with relevant expertise. This assessment should consider potential impact on children and young people, as well as individuals responsible for making reports.

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 essential that individuals making reports in good faith are not penalised for doing so. We are concerned that without sufficient protections, individuals may be deterred from raising concerns due to fear of getting it wrong and the subsequent repercussions for them. This would undermine the effectiveness of any reporting system and could have the adverse effect where child sexual abuse concerns go unreported.

We therefore strongly agree with the inquiry's recommendation that specific whistleblowing protections should be in place for individuals who make reports in good faith, and that this should include a removal of liability for civil proceedings and / or sanctions. We would welcome the opportunity to work with government to consider what these protections should look like in more detail.

There are already a range of protections in place for people who raise concerns in good faith. If legislation is introduced, it is important that this does not conflict with other existing legislation, for example the Public Interest Disclosure Act – which protects individuals who make certain disclosures in the public interest.

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

- Yes
- No
- Don't know

Reporting systems and processes already exist in England and elsewhere in the UK. However, we are concerned that the current landscape is complex and fragmented, which introducing a separate reporting duty for child sexual abuse will add to and exacerbate.

Existing mandatory duties can differ in significant ways, for example in relation to which professions or organisations are captured within scope, the degree of knowledge of abuse needed to trigger such duties, what reporting mechanisms are used or what sanctions are attached to failures to comply. As an example, there is already a mandatory duty for healthcare professionals to report any concerns about Female Genital Mutilation (FGM). It would be far from ideal for health professionals to be required to report 'known' cases of FGM to the police under the existing FGM duty, while at the same child sex abuse would be caught by a wider mandatory duty, with potentially a different reporting route of a different nature altogether.

Therefore, to help ensure the effective implementation of any duty, we strongly believe that existing reporting systems should be consolidated and aligned so that expectations and duties are more clear. If separate mandatory duties are introduced, further clarification will be needed about how they will interact with existing mandatory reporting duties to avoid discrepancies in approach and to avoid creating a complex system with multiple obligations.

Q26: Where should reports be made to?

- Local Authority
- Police
- elsewhere (please specify)

When a referral is made it is important that it results in an appropriate response. While we don't have a position on whether the final report should be made to a local authority or the police, to ensure effective implementation we strongly believe that any new reporting route should align with existing reporting processes where possible to make expectations clear.

At an individual level, given the range of different roles that the duty could apply to, we believe that reports should be made internally to either a senior manager or designated safeguarding lead in the first instance, who will have responsibility to escalate and raise the concern externally as required. This reflects current practice and will be particularly important for those in lower-grade or support roles where the appropriate action would be to raise the concern with a line manager or designated safeguarding lead as opposed to immediately making the report directly to the local authority or police. Designated persons or safeguarding leads will often have special responsibility and training to deal with concerns and will therefore be better placed to raise the concerns externally. This would also provide a degree of central oversight and help streamline reporting processes.

This aligns with our own raising concerns guidance, which directs individuals to raise their concerns internally first - directly with their line manager or other senior member of staff – and to gradually escalate the concern higher up the organisation and / or externally if they feel that the concern has not been dealt with appropriately, in line with their employer's raising concerns or whistleblowing policy. We believe that this is an appropriate approach, which many individuals would already be accustomed to following.

Whether the duty is applied at an individual or organisational level (or both), it's imperative that any model of mandatory reporting is underpinned by detailed guidance so that mandated reporters know where to make the report and will know when they have effectively discharged the duty. It will also be important to clarify what a multi-agency approach would look like, if established. For example, if a report is made to a local authority designated officer (LADO), clarity will be needed about whether this is sufficient to discharge the individual or organisation of their duty to report to another.

Roles and responsibilities, and the parameters of accountability must be clearly defined. This will be particularly important in situations where the child may have come into contact with multiple individuals, where the lines of accountability may be slightly obscured. This will also be important for individuals making reports through their organisation; individuals must have assurance that once they have made a report through the relevant institutional structures and processes that they have successfully discharged their duty and that any subsequent failure to escalate the concern rests with the organisation.

Clear examples or case studies to help demonstrate how the duty would work in practice would also be beneficial as it would help ensure consistency and clarity in approach. As an example, we developed our own case studies on raising concerns to help our registrants apply our raising concerns guidance in practice. We would be happy to support the development of any accompanying guidance or supporting information introduced.

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

We are concerned that the inquiry's recommendation that reports should be made 'as soon as practicable' is not sufficiently defined. We are also concerned that this implies that the report should be made as soon as a person is available and capable of doing so, rather than the timing being based on what is in the best interest of the child. There could be situations where it might be in the child or young person's best interest to delay making a report, for example, if an immediate report could place the child at greater risk of harm. This raises the question about whether any duty should be qualified by a specific time period given that there needs to be discretion to defer reporting so as to take account circumstances of each case.

Should timescales be introduced, we believe that a more appropriate approach would be for reports to be made as soon as it is reasonable, rather than practicable. While 'practicable' insinuates that the report must be made as promptly as possible, 'reasonable' provides a greater degree of discretion and helps place the interest of the child at the centre of the decision making.

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

Over the course of our work we may also come into receipt of information that might indicate potential concerns in need of reporting. Should an organisational duty be introduced, we would need very clear parameters from government outlining which organisations would be considered mandated reporters and we would welcome further clarity on this point.

We would also need greater clarity about how this duty would interact with existing reporting duties and information sharing agreements. As an example, we already have existing arrangements for referring concerns to Disclosure and Barring Service and Disclosure Scotland. Under current arrangements, we make referrals at the

conclusion of a fitness to practise case, where in individual's practise has been found impaired, and that they have either caused harm or pose a future risk of harm to children / and or vulnerable adults. We must also make referrals if we become aware that a registrant has been cautioned or convicted of a relevant auto-bar offence.

Additional reporting duties could therefore become complex and overly duplicative, particularly if there are differences in timing, level of knowledge and reporting route prescribed. Should we be considered mandated reporters, we would strongly advocate for any new mandatory reporting duties to take into account and align with existing processes.

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
- **NA**

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

There can be multiple reasons for failing to report child sexual abuse, and it's important that mandatory reporting is not regarded as the single solution to what is an extremely complex issue.

The ability of mandated reporters to identify children either being abused or at risk of abuse is an essential precursor to the success of any reporting process. However, as highlighted by the inquiry, a key reason why child sexual abuse can go unreported is because of the challenges with identifying key indicators and signs. The abuse will almost always happen in private, and the physical injuries resulting are often not obvious.

It is therefore essential that individuals within scope of the duty receive regular and appropriate training to enable them to identify physical, emotional and behavioural indicators of potential child sexual abuse. Training on warning signs exhibited by perpetrators is also important and will help embed a more preventative approach. We agree with the inquiry that these indicators should be set out in detailed supporting guidance that can be updated and amended as needed to reflect best available evidence. We welcome the opportunity to work with government on the development of any subsequent training or guidance agreed.

Our standards of proficiency – which define what skills, knowledge and competence professionals must have when joining the register – already include specific standards for registrants to be able to recognise and respond to all forms and signs of abuse. These standards are also used to inform registrants' continuing professional

development (CPD) throughout their careers. While nurses, midwives and nursing associates are already expected to be able to identify and respond to signs of child sexual abuse, we would welcome the opportunity to explore whether and, if so, how our expectations could be strengthened to support more effective identification and reporting of abuse.

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

This is covered elsewhere in our response.

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

We believe a review of the whole system of reporting would be beneficial, to bring greater clarity, consistency and uniformity across the sector. We reiterate our points expressed elsewhere in this response that we believe one single system of reporting for child abuse and neglect would be beneficial. We also believe further training for mandated reporters on child protection including known indicators of child sexual abuse will be essential to support and improve the identification and disclosure of abuse.