

## Mandatory reporting of child sexual abuse consultation, November 2023

### Organisational information

[Brook](#) is the national sexual health and wellbeing charity which has been providing clinical sexual and reproductive health services to young people for 59 years; relationships and sex education in schools in England and Wales; and one to one support for young people.

We are a sector leader in developing safeguarding procedures within sexual health services. In 2014 Brook was commissioned by the DHSC to publish a tool, [Spotting the Signs](#), to support safeguarding assessments within sexual health services which we co-produced with BASHH (the British Association for Sexual Health and HIV). A DHSC commissioned update to the tool was published in September 2023. Spotting the Signs is used by many services beyond sexual and reproductive health. The update was co-produced with input from experts across safeguarding, health, criminal justice and informed by the voices of survivors/young people.

The [Faculty of Sexual and Reproductive Healthcare](#) (FSRH) is a multi-disciplinary professional membership organisation and charity. The FSRH are the leaders in the field of sexual and reproductive healthcare (SRH), and we are the voice for 14,000 healthcare professionals working in this area. We set clinical guidance and standards, provide training and lifelong education, and champion safe and effective sexual and reproductive healthcare across the life course.

We are grateful for the opportunity to respond to this consultation and to contribute to ongoing improvements in safeguarding practice.

### Overarching comments and calls for clarification

Mandatory reporting comes with a range of potential risks as well as benefits and is unlikely to be a silver bullet in addressing child sexual abuse.

The single most important factor in ensuring timely identification and reporting of child sexual abuse will be increasing the skills, expertise and capacity of the children and young people's workforce – across education, health, youthwork, and safeguarding. This includes those in positions to report child sexual abuse and agencies that will receive, assess and action reports.

At present there are still organisations working with young people without basic safeguarding infrastructure and/or with inadequate staff capacity, experience skills and training.

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There is a general lack of capacity in the system with the risk that reported cases will not meet current thresholds for action, will fall through the gaps, or will be missed amidst an inevitable increase in numbers of reports. If case loads grow significantly additional processes will need to be put in place to triage cases for imminent risk, community risk and risk level.

Additional guidance and discrete training specifically around mandatory reporting though necessary will not be sufficient to address the overall skills and experience gap and shortfall in capacity in the whole system.

### **Monitoring for continuous improvement**

We are concerned with how the introduction of mandatory reporting will be monitored and evaluated to ensure it results in more timely identification, reporting and action on child sexual abuse. Monitoring must capture any unintended consequences of the new policy. Both positive and adverse outcomes must be transparently reported to ensure ongoing improvement in safeguarding practice.

### **Need for clarification**

#### **1. Disclosures of child sexual abuse – what constitutes a disclosure?**

Currently the proposals are unclear on what constitutes a disclosure. Greater clarity is needed to set out what constitutes a direct disclosure. E.g. is this an incident when a child or young person themselves recognises and reports behaviour as an example of abuse? Or does it include a professional interpreting reported events as abuse?

The updated proposal has removed the third of the originally proposed three criteria for mandatory reporting ('mandated reporters are not required to make challenging judgements about signs and behaviours which may indicate child sexual abuse is taking place'), but it is not clear whether this is the same as removing all indirect disclosure from the requirement altogether.

#### **2. The criteria for exemption from mandatory reporting in relation to age, and age gaps between young people**

This needs further clarification as it is framed in two different ways that could result in different interpretations.

- In one instance it specifies 'A report will not need to be made under the duty if those involved are between 13 and 16 years old, the relationship between them is consensual and there is no risk of harm present'.

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- In another it uses more general language i.e. 'in the absence of coercion or significant differences in age or maturity, an exception should be made under the duty in such circumstances'. This language implies **more flexibility as regards age and is something we would welcome.**

Setting the exemption only to those between 13 and 16 where there is an absence of coercion or significant difference in maturity would limit the scope for professional judgment as regards other ages and age gaps e.g. a 15 year old and a 17 year old of similar maturity or other common scenarios.

Health care professionals working in sexual and reproductive health, and in General Practice routinely make these judgments in their work. They do so by taking into account a range of contextual, and circumstantial factors including risk factors and protective factors when assessing the safety of a young person in a sexual relationship.

All sexually active young people should routinely generate professional curiosity around their wellbeing and safety. However a small age gap, for example, between two people over and under 16 should not in and of itself be considered a safeguarding concern or be reportable.

We are concerned that limiting the exemption to a specific age group will limit the scope for professionals to use their own judgment, with a range of potential adverse outcomes.

Specifically we are extremely concerned about:

a) the criminalisation of young people who are not abusers if people feel compelled to report an individual because of mandatory reporting requirements based solely on age/age difference in the absence of any additional evidence of coercion or abuse.

b) young people being fearful of seeking help and advice around health and wellbeing issues e.g. from sexual health services – or talking honestly about their relationships with HCPs – if it becomes known that the ages of clients and clients' partners will be used as a blunt assessment tool.

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## Answers to the questions on the published questionnaire

### About you

#### Question 1. Your name

Lisa Hallgarten lisa.hallgarten@brook.org.uk

#### Question 2. Address and postcode

Brook  
14 New Street,  
London EC2M 4HE

Faculty of Sexual and Reproductive Healthcare:

Lorna Kelly, External Affairs Communication & Policy Manager, lkelly@fsrh.org

**Question 3.** To help us analyse our responses, could you please tell us in what capacity you are responding to this consultation.

- Brook = Voluntary sector health care provider
- FSRH = Multidisciplinary professional organisation and charity

**Question 4.** If you are responding on behalf of a group or organisation, what is your role within that organisation?

- Brook, Head of Policy and Public Affairs, working alongside safeguarding team to respond to this consultation
- FSRH, External Affairs Communication and Policy Manager

**Question 5.** If you are a representative of a group or organisation, please tell us its name and give a summary of the people or organisations that you represent.

Brook, the sexual health and wellbeing charity providing clinical sexual health services and one to one wellbeing support for young people

FSRH a membership organisation and the voice for 14,000 healthcare professionals working in this area

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## Diversity

**Question 6.** What is your sex?

- Prefer not to say

**Question 7.** What is your ethnic origin?

- Prefer not to say

## The mandatory reporting duty

**Question 8.** In sharing findings from this consultation, may we quote from your response?

- Yes – anonymously

**Question 9.** In addition to the definition of 'regulated activity in relation to children' provided by the Independent Inquiry, the government is proposing to set out a list of specific roles which should be subject to the mandatory reporting duty. Which roles do you consider to be essential to this list:

A criteria in relation to organisations and individuals and the nature of their work alongside designated roles is likely to be more future proof than a comprehensive list of roles or job titles which vary within and between organisations and could result in excluding some people working with potentially vulnerable children and young people and including others without the skills, support or remit to be assessing for safeguarding.

**Question 10.** What would be the most appropriate way to ensure reporters are protected from personal detriment when making a report under the duty in good faith; or raising that a report as required under the duty has not been made?

Any organisation with a mandatory reporting requirement must have in place safeguarding and whistleblower policies and procedures and an obligation to make these visible, accessible and comprehensible to employees.

There should also be visible local area pathways for those who do not have organisational support for resolving difficulties with passing on information. These should be flagged in organisational policies as well as through safeguarding networks.

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It is vital as in other areas of healthcare (e.g. maternity care) that enquiries into adverse incidents not only protect the whistleblower, but aim to avoid future problems rather than having a narrow focus on naming and blaming individuals. Systems which aim at continuous improvement rather than focusing solely on culpability encourage people to come forward.

**Question 11.** In addition to the exception for consensual peer relationships, are there any other circumstances in which you believe individuals should be exempt from reporting an incident under the duty?

We are not aware of other grounds for exemption (but due regard should be paid to the need for clarification of what constitutes a disclosure

**Question 12.** We are proposing that there would be criminal sanctions where deliberate actions have been taken to obstruct a report being made under the duty. What form of criminal sanction would you consider most appropriate?

Application of criminal sanctions is outside of organisations' area of expertise.

**Question 13.** Should situations where a reporter has been obstructed due to active indifference or negligence also be subject to these sanctions?

Application of criminal sanctions is outside of our organisations' area of expertise.

**Question 14.** We would like to test the view that professional and barring measures apply to those who fail to make an appropriate report under the duty. Do you agree with this approach? Would different situations merit different levels or types of penalty?

In cases where failure to report is a matter of poor practice and not deliberate obstruction, it seems appropriate to manage this as a matter of professional practice as opposed to criminal action.

**Question 15.** Are there any costs or benefits which you think will be generated by the introduction of the proposed duty which have not been set out in the attached impact assessment?

We are not in a position to assess the cost of implementation, but it is clear that **mandatory reporting needs to sit within a broader fully funded cross-departmental strategy to increase the skills and expertise within the children and young people's workforce:** with a focus on recruitment, retention of experienced staff, training and continuous professional development.

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**Question 16.** In the light of the proposals outlined in this paper, what are the key implementation challenges and solutions reporters and organisations will face?

Many organisations will already have robust safeguarding and reporting mechanisms and protocols in place. Some staff resource will be required to understand and disseminate new reporting requirements in so far as they differ significantly from existing protocol.

For the organisations not currently effectively safeguarding and without reporting mechanisms there will be significant work to do to inform and train staff and to put in place policies and procedures. This is likely to be the case only for smaller organisations for whom safeguarding is not a significant part of their work and may be burdensome to introduce and implement. Organisations in this situation may expect to draw on local safeguarding agencies for support.

It is vital that there is complete clarity about what needs to be reported and how. Lack of clarity will represent an additional burden on organisations and reporters. As the proposal stands there is still lack of clarity about what represents a disclosure that is reportable, and whether professionals can use their judgment when it comes to the exemptions in relation to consenting relationships or need to limit exemptions to the under 16s.

### **How to respond**

Please email this response as an attachment to: [mr\\_csa@homeoffice.gov.uk](mailto:mr_csa@homeoffice.gov.uk)

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