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ADCS response to the mandatory reporting call for evidence

1. Introduction

1.1. The Association of Directors of Children's Services Ltd (ADCS) is the professional association for directors of children's services (DCS) and their senior management teams. Under the provisions of the *Children Act 2004*, the DCS is the chief officer responsible for the discharge of local authority functions regarding education and children's social care and champion for children across wider children's services. ADCS welcomes the opportunity to make a submission to the call for evidence on mandatory reporting. In line with [our response](#) to the government's previous consultation on the same topic, ADCS does not support the introduction of a mandatory reporting duty. In its [response](#) to the 2016 consultation, the government noted that the case for mandatory reporting had not yet been made (Home Office, 2018).

2. Current safeguarding context

2.1. ADCS believes the most common reason people fail to report child sexual abuse is because they simply do not recognise the signs or know how to act on concerns that do arise. The Home Office's [Tackling child sexual abuse strategy \(2021\)](#) supported this view, additionally noting that professionals lack the confidence to talk about it. Indeed, the Home Secretary underlined the need for a strong focus on [training for professionals](#) so they have "the know-how to deal with these delicate but devastating matters" in the debate that followed the publication of the government's response to the final report of the Independent Inquiry into Child Sexual Abuse (IICSA) (Hansard, 2023).

2.2. IICSA predominantly looked at historic abuse over several decades, and the responses to it, particularly in specific institutions, such as the Anglican Church and/or institutionalised settings, such as boarding schools. Over the last three decades, the UK has developed a sophisticated child protection system with an established multi-agency operating framework set out in *Working Together to Safeguard Children (2018)* and *Keeping children safe in education (2022)*. It is well understood that "safeguarding is everybody's business," and this is reflected in year-on-year growth in contacts and referrals received by children's social care from the police, health partners and education settings as well as other agencies and members of the public.

2.3. The rise in referrals to children's social care suggests a strong and growing awareness of child protection amongst professionals and members of the public, and appears to be increasing further – in 2021/22, local authorities in England received in excess of 2.7 million [initial contacts](#) in children's social care, up from 1.2 million in 2007 when ADCS first started tracking these data (ADCS, 2022). The profile of referrals has shifted over time and the majority of child protection concerns relate to neglect and emotional abuse rather than physical abuses. However, recent [trend reports](#) from the government-funded Centre for Expertise on Child Sexual Abuse show strong increases in levels of reporting of sexual abuse to both the police and children's social care, in part linked to heightened awareness of "hidden harms" during the pandemic period (CSA Centre, 2023).

2.4. We are concerned that a resulting rise in inappropriate contacts or referrals that has characterised the introduction of mandatory reporting in other jurisdictions risks weakening the child protection system in this country, a system that is widely recognised as one of the safest and most successful in the world. This move could result in defensive practice amongst professionals whose duty starts and ends with a referral rather than prevention or support. We believe that any available investment should be focused on improving the quality of referrals rather than the quantity and on

preventing abuses taking place at all. Further, introducing mandatory reporting will not address the current challenges in protecting children in the UK or emerging threats e.g. technology enabled grooming and sexual exploitation, including the production and distribution of explicit images.

3. Experiences of mandatory reporting

3.1. A mandatory reporting duty for known cases of female genital mutilation (FGM) already exists in this country. It was introduced under the *Serious Crime Act 2015*, with the aim of reducing prevalence and increasing successful prosecutions. While the intention behind this duty was positive, [research](#) suggested a parallel reporting regime caused confusion amongst practitioners. Families also noted the devastating impact of unsubstantiated reports being made to the police without a preliminary assessment or discussion with them first. Both professionals and families taking part in this research expressed concern about adequate levels of training (Forward, 2021).

3.2. Mandatory reporting has been introduced in other countries in response to significant levels of undisclosed abuse and a perceived failure by some professionals to report concerns about the neglect and abuse of children and young people. All American states have some form of mandatory reporting in place and Australian states also have variations on the duty too. Experiences from child protection services in these jurisdictions underline an overwhelming focus on managing an increased volume of reports and the assessment and investigation of families rather than the provision of support and the promotion of wellbeing. The majority of Australian states had to significantly increase expenditure on social work assessment and investigation following the introduction of this duty, yet the substantiation rate remains as low as 1 in 5 in some states and significant numbers of referrals were not investigated at all. [Recent research](#) undertaken with Australian nurses on their experience of mandatory reporting painted a picture of a risk-averse culture that promoted a rigid, “rule-centred” rather than “child-centred” approaches (Lines, 2020).

3.3. Pennsylvania in the USA significantly expanded its mandatory reporting duty in 2014 to cover a wider range of professionals, abuses and boost criminal sanctions for failure to report following a high-profile college football scandal. A recent [investigation](#) showed that in the first five years of operation the state saw a 72% increase in reports but no material increase in substantiated allegations of child sexual abuse or exploitation. Up to four in five reports were linked to lower-level neglect and disproportionately related to families living in poverty and minoritised communities. Child deaths have increased almost every year since introduction. Officials involved in the development of the 2014 reforms now believe this move may have inadvertently made children less safe by straining the system and syphoning resources away from genuine cases of abuse (NBC, 2022).

3.4. Evidence from other jurisdictions suggests mandatory reporting is not a silver bullet. A synthesis of 42 [international studies](#) on the experiences of mandatory reporters, including nurses and teachers, found almost three quarters (73%) of articles included negative experiences, from harm to therapeutic relationships to revictimisation of the child during the reporting process. The analysis concluded there are many potentially harmful experiences associated with mandatory reporting and that research on the effectiveness of this process is urgently needed (BMJ, 2017).

4. Parameters of a new duty (including exemptions)

4.1. The use of “disclosure” in the parameters of the duty put forward by IICSA is worrying, it is generally accepted that the term “allegation” should be used until such time as it is substantiated, typically by a criminal conviction. The word disclosure is not routinely used in records, reports and/or court documents until such time as it is proven and to use this word pre-empts any investigative work. That is not to say an allegation should be downplayed or minimised, but it

highlights the onus to investigate via a Section 47 or a Local Authority Designated Officer (LADO) enquiry.

4.2. The call for evidence asks for views on a broadening of the duty beyond sexual abuse to cover all forms of abuse. A mandatory reporting duty that covers all forms of abuse would likely cause significant confusion and an influx of inappropriate reporting. Ambiguity and grey areas need careful consideration here, many people may deem physical abuse to be over chastisement and make a report yet it is not illegal for parents to smack their child in England. Similarly, shouting or swearing at a child, though concerning, could be viewed as emotional harm and reported, rather than challenged if witnessed.

4.3. IICSA propose that a report is required if a child displays recognised indicators of abuse but there is no neat checklist to work from and mandatory reporting overlooks the role skilled professionals play in building a trusting relationship to enable a child to make a disclosure of abuse in their own time. Plus, if there is insufficient information for either children's social care or the police to act on, no action may follow.

4.4. The proposed exemption put forward by IICSA suggests 13–16-year-olds who are in a consensual relationship should not be covered by a mandatory reporting duty. Though the rationale for this is somewhat understandable, such an approach could again add to confusion as it is out of step with the legal age of consent in this country. Exemptions may also provide a loophole for abuse to continue if adults do not recognise that a child cannot consent to their own abuse.

5. Sanctions for non-reporting

5.1. IICSA proposed the use of criminal sanctions where anyone in a mandated profession witnesses abuse or receives a direct disclosure from a child but does not pass it on. The standard of proof is rightly high, meaning prosecutions would be extremely rare. ADCS does not believe it is proportionate or necessary to threaten professionals with criminal sanctions to protect children as they can already face serious repercussions for willfully or negligently failing to act. These include employer sanctions, fitness to practice assessments, dismissal or dis-barring. As employers, it is difficult to identify any circumstances as to where a social worker, for example, should face a criminal prosecution, unless they were themselves, implicated in abuse. The threat of criminal proceedings could add to the already challenging recruitment and retention picture in children's services and in teaching and feels disproportionate when we consider the low conviction rates for perpetrators of rape and domestic abuse via the courts.

5.2. It is also the case that social workers, teachers, police officers, GPs and other professionals who work with children and young people have a moral and legal obligation to act when concerns arise. *'Working Together'* statutory guidance is clear that professionals should refer any concerns about the welfare of a child or young person directly to children's social care. Whistle-blowing vehicles also exist for children and young people themselves, for practitioners and members of the public who are concerned that their employer is not dealing with the sexual abuse of children and young people at an organisational level.

6. Unintended consequences to guard against

6.1. An unintended consequence of mandatory reporting could be distortion of social responsibility and a rapid and widespread expansion of state involvement in family life. We advocate the investment of efforts and available resources in prevention, early identification and early help via measures aimed at children and young people themselves, professionals and the general public. Communities and all professionals and volunteers working with children and young people should

be empowered to recognise the early signs of all forms of abuse and neglect and be confident in responding appropriately to this risk.

6.2. Children and young people told IICSA that mandatory reporting could discourage disclosures for fear of the potential consequences for them, for their families and potentially for their abuser. Some victims and complainants also told the Inquiry that when they sought help, they wanted the abuse to stop without any legal consequences. This view is supported by international experiences and echoed in domestic research undertaken by the Centre of Expertise on CSA.

6.3. ADCS members are worried that a mandatory reporting duty could serve to undermine gains in multiagency and multidisciplinary working, with other partners seeing their role only to refer on concerns. Practice has evolved in recent years to allow us to move beyond responses to incidents with separate child protection inquiries for individual children. Contextual safeguarding approaches support organisational learning and responses to situational risk via an assessment of policies, processes, culture and norms, even the built environment to identify, and then address areas of concern. In a school, for example, this might be achieved via reviewing policies, staff training, tailored RSE lessons for groups of pupils or designing risk out of communal areas with better lighting or use of CCTV.

6.4. ADCS members report that the quality of referrals from schools are generally better than reports from other agencies as education settings have a designated safeguarding lead (DSL) who receives dedicated training and builds up experience over time. Locating a new duty at both an individual and organisational level will have significant implications for this role. The role of the LADO is also important here, and a recommendation by the National Safeguarding Practice Review Panel to further strengthen the role is currently under consideration by the government (National Panel, 2023).

7. If mandatory reporting is taken forward, there are some conditions which must be met to support implementation

7.1. The introduction of a mandatory reporting duty would represent a significant new burden so a comprehensive new burdens assessment and commensurate funding will be needed to support children's social care here. This funding must cover the costs of receiving and triaging reports as well as the provision of necessary support services too. There are significant gaps in existing service offers to support children, young people and families where abuses are uncovered e.g. mental health support and services for abuses within young people's own intimate relationships. IICSA flagged similar concerns about the access and availability of support in its final report.

7.2. The potential introduction of a mandatory reporting duty must be considered in the round alongside current and future reform programmes, notably *Stable homes built on love*. Experiences in other jurisdictions with mandatory reporting in place show parents and carers are less likely to proactively seek help and support when they are struggling. This could run counter to aims and intentions of these reforms in terms of the provision of non-stigmatising family help, supporting families to stay together and reducing the number of children in care.

8. An alternative approach

8.1. Local and national government must work together to ensure that all professionals, and local communities, are aware of the need for vigilance and how best to manage conversations and disclosures sensitively and raise child protection concerns with the appropriate agency. There is no one size fits all solution to this complex moral, social and cultural issue.

8.2. Rather than focusing resources on identification of abuse rather than the provision of support or further increasing levels of state intervention into family life, ADCS members support a 'public

health' style approach to addressing the prevalence of child abuse and neglect at a population level. This can be achieved via targeted programmes of work with parents and carers, schools and volunteers to help them to understand how best to act when concerns arise via better information, advice and training.

8.3. For professionals, access to relevant training and advice is needed to support their practice, this should be accompanied by efforts to improve information sharing and multi-agency working. *Stable homes built on love* includes reforms and developments in this space. We also need the wider community to play an active role in the fight against exploitation along with a campaign to tackle misconceptions around children being able to consent to their own abuse.

8.4. Children and young people should be helped to understand what healthy relationships look like and taught to recognise the signs of grooming in themselves and their friends via suitable educational experiences at school or college. A reformed RSE curriculum was introduced in 2020 and it is currently under review. We must also look to address broader cultural and social issues, such as the prevalence of violence against women and girls and the role of the internet and social media in the normalising of abusive behaviours, to get to the root of this issue.

8.5. Finally, another important part of this response is developing an understanding of, and working proactively with, perpetrators of abuse. The 'Dunkelfeld Programme' in Germany, for example, offers confidential clinical and therapeutic support to individuals in the pre-offending space. This remains an ongoing gap in strategic responses.

8.6. Members of ADCS would welcome the opportunity to discuss any of the points raised in this response further with representatives from the Home Office and the Department for Education. Please contact katy.block@adcs.org.uk to arrange in the first instance.