

Reporting and acting on child abuse and neglect

Response of the Association of School and College Leaders

Introduction

- 1 The Association of School and College Leaders (ASCL) represents more than 18,500 education system leaders, heads, principals, deputies, vice-principals, assistant heads, business managers and other senior staff of state-funded and independent schools and colleges throughout the UK. ASCL members are responsible for the education of more than four million young people in more than 90 per cent of the secondary and tertiary phases, and in an increasing proportion of the primary phase. This places the association in a strong position to consider this issue from the viewpoint of the leaders of schools and colleges of all types.
- 2 ASCL agrees that that every child deserves to be protected from abuse and neglect. Schools and colleges have an essential part to play in helping to keep children safe and take very seriously their role in deterring, preventing and detecting abuse. This is best achieved when schools and colleges create a strong culture of safeguarding across the whole institution which enables and encourages staff to use their professional judgement.
- 3 We welcome this consultation and the reforms to the child protection system that are already taking place. It is right that government acknowledges that the scale and changing nature of child abuse demands a significant and sustainable transformation in its approach to protecting children.
- 4 ASCL takes the view that new statutory duties should not be introduced unless there is a clear benefit and any new duties should be evidence-based. We remain unconvinced that introducing mandatory reporting or the proposed duty to act in this complex landscape will actually make children any safer.
- 5 We are not convinced that the proposed new duties would reduce the incidence of abuse and neglect of children.
- 6 There are clearly potential perverse incentives and unintended consequences for mandatory reporting and a duty to act, some of which are outlined in the consultation document; we fear that the effect of these perverse incentives and unintended consequences may be to actually worsen the situation and leave children less safe. We are particularly concerned that the proposed duties may exaggerate the compliance culture that affects this area. Our members report that children's social care services in many areas are already overstretched, there is a real risk that the effect of introducing the proposed duties would be to further overload children's social care services which would actually make children less safe.
- 7 If it is decided to introduce mandatory reporting ASCL takes the view that it should be strictly limited.

Instances where there is a deliberate cover-up

- 8 ASCL believes that it should be against the law for someone to actively cover up child abuse. We believe that it should be an offence for an individual to cover up a crime against a child and that this should include a situation whereby an individual consciously fails to report known abuse of a child.

What problem are we trying to solve?

- 9 Our understanding is that the many allegations and the ongoing and recent investigations and inquiries into current and historic cases of child abuse occurred and were enabled to be perpetrated for reasons other than the failure of front-line services and in particular schools and colleges to report. In cases such as the Rotherham child exploitation scandal the extensive failings were a result of children's social care failing to act on reports rather than because the issues were not reported to them. Other failures may be due to a failure of children's social care to take reports seriously or to cope with the number of cases being reported.
- 10 These high profile sexual abuse cases actually predate *Working Together* and it is still too early to know if the recently introduced duty to report female genital mutilation (FGM) has been effective.

Current statutory guidance is already very clear

- 11 Professionals in schools and colleges already understand that any suspicion of abuse of children should be reported to the designated officer for the local authority's children's social care service. ASCL has not seen any evidence that professionals in schools and colleges fail to report suspected abuse that has come to their attention.
- 12 The current statutory guidance in this area is already very clear about the legal duties on schools and colleges and the procedures that staff and organisations should follow. Schools and colleges must already take the statutory guidance into account and, if they decide to depart from it, must show clear reasons.
- 13 If there is evidence of a need for a stronger reporting duty, which we do not believe there is, then we think the solution should be to clarify and strengthen existing duties rather than add another layer of compliance.

Lessons from The Munro Review of Child Protection: professionals working with children and young people must be encouraged and empowered to use their professional judgement and discretion.

- 14 Safeguarding children is the responsibility of all, and a strong safeguarding culture within a school or college is essential. Such a culture must be led by the senior leadership and committed to by all staff. Schools and colleges take this responsibility very seriously.
- 15 The lesson from Munro is that a focus on bureaucracy (in this case the duty to report) may actually put children at greater risk. The report recommended "stripping away much of the top-down bureaucracy that previous reforms have put in the way of frontline services"¹. Munro said that instead of "doing things right" (ie following procedures) the system needed to be focused on "doing the right thing" (ie checking whether children and young people are being helped).

¹ The Munro Review of Child Protection: Final Report, paragraph 8.27

- 16 The Munro Review of Child Protection final report makes clear: “This review recommends a radical reduction in the amount of central prescription to help professionals move from a compliance culture to a learning culture, where they have more freedom to use their expertise in assessing need and providing the right help”². We are concerned that the proposed new duties could see a return to a more bureaucratic approach to safeguarding, exactly the opposite of the recommendations in the Munro review. It is imperative that any new duty does not become a tick box exercise.
- 17 As recently as September 2016, the Children’s Commissioner released a reporting on School Nurses based on a survey completed by 7775 school nurses³. “The Children’s Commissioner is concerned by the amount of time that school nurses are spending on paperwork and bureaucratic child protection duties such as case conferences, which is impacting on their wider role to improve the health and wellbeing of children and young people in England. Ironically it appeared that the involvement of school nurses in extensive child protection and safeguarding processes may be preventing them from being accessible to children and young people to provide important early help and advice for those at risk of harm”.

Raising awareness and underreporting of abuse

- 18 ASCL agrees that there is under-recognition of abuse, but this is not because of lack of reporting by organisations such as schools and colleges. A new reporting duty will therefore not address this problem.
- 19 A large proportion of abuse and neglect of children continues to go undetected by statutory agencies, note for example reports by the Office of the Children’s Commissioner for England that have highlighted that only one in eight victims of childhood sexual abuse are likely to come to the attention of the police. But we are not convinced that these new duties on schools and colleges will solve the problem. We note that as at October 2015 the Children’s Commissioner position on mandatory reporting states: “We remain unconvinced that introducing a general law which makes the reporting of child abuse mandatory would improve the protection of children and are concerned, having read evidence from NSPCC and others that it may have the opposite effect.”
- 20 In our view, the new duties are not the best approach to solve the problem of under reporting. This a problem best solved by a culture shift, awareness raising and ensuring that all professionals who work with children, including school and college staff, have access to appropriate high quality training so that they are able to identify the early symptoms, which are often hard to spot, and can use their professional judgement to safeguard all children.

Potential for increased number of unsubstantiated referrals

- 21 The consultation makes clear that a mandatory reporting system could result in an increase in unsubstantiated referrals, which may make it harder to distinguish real cases of abuse and neglect and hinder the ability of social care to take swift and appropriate action. We fear that a new statutory duty could mean that professionals are less likely to use their judgement and increase unmoderated self-preserving reporting, which would detract from the core intention of increasing child protection and

² The Munro Review of Child Protection: Final Report, paragraph 5

³ <https://www.childrenscommissioner.gov.uk/news/vital-role-school-nurses-threatened-paperwork-eats-time-children>

make it more difficult for already overstretched social care to investigate allegations in a timely manner and identify genuine cases of abuse.

Impact on social care – overwhelming an already stretched system may divert attention from where it is most required

- 22 As we have expressed above we do not think that the barrier to protecting children is that schools and colleges are not reporting their concerns. Under the current system schools and colleges can and do report if they have any grounds to do so. We are extremely concerned that a mandatory reporting duty may create a situation which reinforces a compliance culture resulting in professionals becoming more risk-averse and reporting rather than using their judgement on a case by case basis. The result of this would be to further load social care with referrals which will inevitably demand investigation.
- 23 ASCL members tell us that it is already the case in many social care departments that the number of cases coming through the ‘front door’ are not allocated or assessed in a timely way. We are deeply concerned that these proposed duties could make children less safe by further overwhelming children’s social care departments, impacting on their ability to quickly prioritise and assess cases⁴.
- 24 If these new duties are introduced it is essential that there is also a significant increase in national investment in front line children’s social care to ensure that referrals can be processed and children assessed accurately and quickly.

ASCL opposes the new duties for the reasons outlined above. If they are introduced they should be strictly limited in a number of ways:

- 25 Accountability should rest at an organisational level. If new duties are introduced accountability should rest with the organisation rather than with the individual. This will encourage professionals to continue to use their professional judgement and to act in the best interest of children rather than out of compliance or fear of being penalised. An organisational duty like the existing duties under the equalities, health & safety or information legislation would enable the responsibility to report to lie with individuals but the accountability to lie with the organisation.
- 26 If accountability does rest with an individual it should only apply to the senior leader in each institution, or executive head if there is a single responsible figure for a number of institutions.
- 27 The new duties should be restricted to organisations with a residential element. This is in recognition of the fact that children in residential settings may not have outside sources of support. We acknowledge that in residential settings there is greater scope for conflicts of interest.
- 28 The new duties should only apply to a failure to report clear and unambiguous allegations of abuse. They should not apply to ‘concerns’ or ‘suspicions’. These would still be subject to the duty to cooperate with other agencies.

⁴ A recent example from adult social care: the bureaucracy surrounding deprivation of liberty safeguards in adult social work has led to a decision to use desktop assessments for low priority cases to clear a backlog of more than 100,000 referrals because councils do not have sufficient resources to cope with the sheer numbers
<http://www.communitycare.co.uk/2016/10/04/councils-turn-desktop-assessments-dols-backlog-hits-100000/>

- 29 The forms of abuse the duties apply to should be clearly defined. If new duties are introduced it should be clear that they apply only to sexual abuse (to include female genital mutilation and forced marriage).
- 30 If criminal sanctions are introduced they should only apply to a failure to report abuse within the institution for which the individual is personally responsible.
- 31 Once an allegation has been reported to children's social care the reporting duty should be considered to have been discharged.

Conclusion

- 32 Schools and colleges take very seriously their role in deterring, preventing and detecting the abuse of children and young people.
- 33 Any new legislation should be evidence-based.
- 34 ASCL has yet to see evidence that mandatory reporting will better protect children.
- 35 ASCL is concerned about unintended consequences of a new duty.
- 36 If it is decided to introduce mandatory reporting ASCL takes the view that it should be strictly limited.
- 37 I hope that this is of value to your consultation, ASCL is willing to be further consulted and to assist in any way that it can.

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10 October 2016