Mandatory reporting (PE01551: Mandatory Reporting of Child Abuse)

Introduction
For 130 years, as the RSSPCC and now as CHILDREN 1ST, we have campaigned for every child in Scotland to enjoy a better start in life and for no child to grow up in fear of abuse and violence. We will continue to be a strong public voice for vulnerable children and young people in Scotland, listening to them, to influence public policy and attitudes. Then, now and for another 130 years, as long as Scotland’s children need us.

CHILDREN 1ST has 63 local services and five national services across Scotland. We work closely with many local authorities and in partnership with other organisations. Many of our services focus on abuse and trauma recovery for children and young people and their families affected by physical, sexual or emotional abuse. All our services are child centred and the children, young people and families we support are key partners in all aspects of our work.

We welcome the discussion prompted by Petition PE01551: Mandatory Reporting on Child Abuse, which provides an important opportunity to reflect on ways to strengthen Scotland’s child protection system to ensure that it is child centred and rights-based. This is particularly important given the current ongoing discussions relating to child sexual abuse, justifiable assault, historic child abuse and child sexual exploitation in Scotland.

However, CHILDREN 1ST remains cautious that a move towards mandatory reporting may have significant unintended consequences to the way in which children and young people speak about abuse. Our response therefore focuses on the need for careful consideration of the potential impact of introducing mandatory reporting in Scotland and identifies ways in which the Scottish Government, Parliament and others can work to strengthen existing child protection processes to ensure that they are child centred and rights-based.

Mandatory reporting in Scotland: unintended consequences and key considerations
Whilst we recognise the background behind calls to explore mandatory reporting of child abuse in Scotland and welcome the opportunity to discuss the issues raised by this Petition further, we have significant concerns about whether such proposals would help keep children safe. In particular:

- We know from experience that many children and young people are fearful of disclosing abuse and do not come forward for the protection they need and deserve. Others tentatively explore what might happen if they do begin to speak about abuse. We know that the most positive experience for a child or young person occurs when they decide to speak out in their own time and at their own pace. If an adult moves too quickly to formal reporting and action—which may happen if they were concerned about the consequences of failing to report—the child often retracts their disclosure and may, in fact, then be at more risk as their abuser will have been alerted to their attempt to find support.
If professionals and others are bound by law to report suspicion of abuse this may prevent children from talking openly about their experiences.

A focus on reporting of cases by professionals or others, due to concern about prosecution rather than a consideration of what is in the best interests of the child, may mean a bureaucratic and process-driven reporting procedure rather than a focus on putting the child at the centre and listening to his or her voice.

The increase in reporting that is likely to accompany the introduction of mandatory reporting may divert resources away from identifying and responding effectively to those children and young people who are most at risk.

A generic offence relating to failing to report child abuse to relevant authorities for both professionals and the general public may also victimise those who are vulnerable or who have been targeted physically or emotionally by an abuser. Any further discussion relating to mandatory reporting must therefore include a full and comprehensive assessment and understanding of the dynamics of domestic abuse and the role that this can play in failing to report.

The Scottish context is uniquely different. While there may be some international or UK examples of variations of mandatory reporting, the Scottish Parliament and the Scottish Government should take into account the unique child protection process and policy landscape in Scotland and the way in which introducing such changes would impact on Scotland specifically. Discussions should be seen in the wider context of the measures introduced in the Children and Young People (Scotland) Act 2014, for example, which legislates for the Named Person—a role which is intended to stop vulnerable children ‘slipping through the net’ by collating wellbeing concerns about the child and taking appropriate action.

Professionals, social workers and police in Scotland already have their particular responsibilities clearly identified. Local authorities and others have legal duties in relation to reporting and investigating abuse through the Police and Fire Reform (Scotland) Act 2012 and the Children's Hearings (Scotland) Act 2011. Whilst we will continue to work to ensure Scotland’s child protection processes and guidance are as good as they can be, it is important to recognise that legislation and processes alone do not keep children safe; people do.

Any further consideration of mandatory reporting by the Scottish Government must involve a full and comprehensive public consultation that clearly identifies any unintended consequences and takes the current Scottish policy context into account. This should offer a clear definition of mandatory reporting, including whom it would apply to and in what circumstances and should involve a Child Rights Impact Assessment (CRIA).

However, CHILDREN 1ST believes that the primary measure of addressing child abuse in Scotland should not be mandatory reporting, but that the Scottish Government and Parliament should instead look at ways to improve the child protection system more widely.

**Strengthening Scotland’s child protection system**

Rather than focus on prosecuting people for failing to report child abuse, the Scottish Government and Parliament should consider ways to improve the existing child protection system to ensure that it firmly places the best interests of children and
young people at the centre. This means focusing on the needs of children who have been abused. Our services have found that very few children who do speak about abuse and become the subject of child protection procedures report having had a positive experience, and research shows that many professionals are not able to identify a child protection process that represented a success from the point of view of the child\(^1\).

Where children decide to speak out, they have a desire to retain some control of the process, and to know what to expect. The child protection system, however, can often move at speed and remove control from the child. Children tell us that speed is often not the most important thing; they want to be helped to find relief from the abuse in a way that is sensitive to each child’s particular fears. CHILDREN 1\(^{st}\) has found that when it comes to adapting the child protection guidance so that it fits around the child’s particular fears and preferences, professionals very often feel inexperienced, ill-equipped, and often not sufficiently supported by colleagues or managers to adapt the process accordingly.

The Scottish Government and Parliament should therefore consider making the following improvements to the child protection framework in Scotland in order to improve children and young people’s experience of the child protection system—as an alternative to focusing on mandatory reporting:

1. Take a child rights-based approach to child protection, whereby children are identified as rights holders and duty bearers are clearly informed and trained about children’s rights.

2. Grant children and young people greater control over the process, including how much time they can take disclosing abuse, listening to their voices and enabling them to say who they want to support them during the process.

3. Promote professional confidence and skills so that professionals feel informed, trained and supported by their managers to respond to abuse allegations in a child-centred rather than process-focused manner.

4. Consider measures to ensure that abuse is acted on—rather than mandatory reporting of suspicions of abuse. There is a clear difference between not immediately reporting suspicions in order to allow the child to retain some control, and covering up evidence of abuse. Many recent cases of child sexual abuse and exploitation show that the abuse was reported but no action was taken. We must work to ensure that children and young people’s voices are heard and that abuse is recognised as abuse and not labelled as “risky” or “challenging” behaviour.

5. Ensure that services for children and young people who have been abused are fully resourced and fit for purpose. Any changes to child protection processes and procedures that may result in an increased number of referrals must be accompanied by a clear assessment of capacity in terms of both financial and human resources.

6. Provide enhanced training for frontline staff and services—and more widely—on child abuse and children’s rights and the best processes and procedures to help a child speaking about abuse.

\(^{1}\) CHILDREN 1ST and ChildLine in Scotland, Getting the balance right?, 2005
In order to progress these potential solutions CHILDREN 1ST are pioneering a new approach, currently called ‘Confidential Space’, to establish a model of multi-disciplinary working that supports and protects children and young people who are living with or who have lived with sexual abuse and fully responds to their needs. It aims to create a child centred child protection framework which responds to children and young people’s own development, fears and behaviours, enabling children and young people to overcome the fear of disclosure and tell what has happened at their own pace. This involves offering children a better means of finding safety and support, improving the quality of evidence gathering, raising the morale and sense of efficacy of professionals involved in child protection and ensuring that children’s rights are respected and their voices are heard.

As this approach enters a developmental phase with four local authorities, CHILDREN 1ST would welcome discussion between professionals, policy makers and the Scottish Government about how new child centred approaches such as this would sit with the proposals for mandatory reporting.

**Next steps for child protection in Scotland**

CHILDREN 1ST believes that the focus with respect to the disclosure of child abuse should be on the best interests of the individual child, rather than on reporting and investigating the abuse. The child protection system in Scotland should be child centred and right-based and we believe that this Petition provides an important opportunity to discuss how to make improvements in this regard.

We need a system which is confident and competent in responding to the individual needs and interests of children and young people who have been abused—and not one that diverts resources away from where they are most required.

Crucially, changes to the existing child protection framework, including mandatory reporting, must not be seen as a ‘knee jerk’ reaction to the current discussions about prevention and reaction to child abuse and exploitation in Scotland. While the rest of the UK may be considering or implementing proposals such as these, the Scottish Parliament and the Scottish Government should take into account the unique child protection process in Scotland and the way in which it can be strengthened in the Scottish context.

Any changes to existing child protection processes—such as those outlined above—should be subject to a Child Rights Impact Assessment to ensure that all unintended consequences are highlighted.