

Title: Possible new requirements relating to reporting and acting on child abuse IA No: HO0197 Lead department or agency: Home Office Other departments or agencies: Department for Education, Department of Health Department for Communities & Local Government Ministry of Justice	Impact Assessment (IA)			
	Date: 12/ 10/ 2015			
	Stage: Consultation			
	Source of intervention: Domestic			
	Type of measure: Primary legislation			
Contact for enquiries: Safeguarding Unit, Crime & Policing Group, Home Office				
Summary: Intervention and Options				RPC Opinion: Fit-for-Purpose¹

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of BIT?	Measure qualifies as
No preferred option	N/A	N/A	Yes	IN

What is the problem under consideration? Why is government intervention necessary?
 Society's recognition and understanding of child abuse has evolved substantially with the publication of high profile cases, reviews and reports in recent years (e.g. Rotherham and Oxford – see Annex B). These cases have exposed professional and organisational failings to respond to child abuse and neglect, leading to the question of whether the current legislative framework is as effective as it can be in ensuring that children are protected from abuse. The particular problem we seek to address in this consultation is the failure to take appropriate professional action, at all levels, when child abuse is suspected or known. This includes failing to report or failing to take appropriate action in relation to suspected child abuse.

What are the policy objectives and the intended effects?
 The central objective is to reduce levels of child abuse by ensuring that the legislative framework and guidance adequately enables professionals to tackle all forms of child abuse. The intended effects are robust responses to child abuse by relevant professionals in the public, voluntary and private sectors.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)
 Option 1: Do not introduce a new statutory measure at this stage: The Department for Education are leading large scale reforms of children's social care services. The need for a new statutory measure may be reconsidered following the implementation of these reforms, once their impact can be more clearly assessed.
 Option 2: Introducing a mandatory reporting duty in relation to child abuse: this duty could apply to specific groups of professionals, to organisations themselves, or to both. It may have professional or criminal sanctions attached to it. The criminal sanctions may be at an individual or organisational level (or both).
 Option 3: Introducing a 'duty to act' sanction in relation to child abuse: this could apply to a specific group of professionals and to organisations themselves. It may have professional or criminal sanctions attached to it. The criminal sanctions may be at an individual or organisational level (or both).
 The consultation does not indicate a preferred policy option. The aim of the consultation exercise is to seek views on: the potential impacts of introducing a new statutory measure in relation to the reporting of and/or acting on suspicions or knowledge of child abuse; and which option, if any, would be effective at addressing the problem as outlined above.

Will the policy be reviewed?
 This policy will be reviewed in 2018.

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A		Non-traded: N/A

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: _____ Karen Bradley Date: 12 October 2015

¹ In agreement with RPC, small changes to language and terminology were incorporated in this impact assessment after RPC's consideration, so the text in the RPC opinion is not always aligned with the published version

Summary: Analysis & Evidence

Policy Option 2

Option 2: Introducing a mandatory reporting duty in relation to child abuse: this duty could apply to specific groups of professionals, to organisations themselves, or to both. It may have professional or criminal sanctions attached to it. The criminal sanctions may be at an individual or organisational level (or both).

FULL ECONOMIC ASSESSMENT

Price Base Year 2015/16	PV Base Year 2015/16	Time Period Years 10 yrs	Net Benefit (Present Value (PV)) (£m)		
			Low: Not Quantified (NQ)	High: NQ	Best Estimate: NQ

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	£7.3m	1	£79.6m	£693m
High	£9.7m		£159.2m	£1,380m
Best Estimate	£9.7m		£119.4m	£1,038m

Description and scale of key monetised costs by 'main affected groups'

Professionals working in public, voluntary and private organisations will need to familiarise themselves with the new policy on child abuse. An estimated 2.8m professional will be affected; this will result in an estimated one-off cost of £9.7m, assuming ten minutes of familiarisation (reading guidance) is done by 100% of professionals. Of these costs, an estimated £2.9m is expected to fall on businesses. The policy could result in an increase in referrals to children's social services. The extent of this is very uncertain, but to provide an indicative cost we assume a 15% increase, resulting in 74,000 additional referrals. At an average cost of £1,600 per referral this would result in an additional annual cost of £119m. This cost is purely indicative – the high and low estimates show the cost of a 20% and 10% increase respectively, but the actual effect could be outside of this range. It is estimated that the cost to criminal justice system agencies per additional defendant proceeded against for failing to report child abuse will be approximately £12,000. [Note: this is not included in headline costs.]

Other key non-monetised costs by 'main affected groups'

As for Option 2, there would be a cost to professionals (and business) from making a report to children's social services and potentially a cost of an increased number of children looked after in foster or residential care. These are not yet monetised, however, we plan on researching this issue further during the consultation period. The range of possible sanctions at an individual and organisational level (e.g. covering referrals to the DBS, fines and remedial orders) have been identified and included in sensitivity analysis but are not robust enough to be included in headline costs. We also expect to gather further information, potentially informed by consultation responses, on the likely number of additional prosecutions per annum. There may also be some costs over time due to new entrants in affected professions having to read the additional guidance. This is not yet monetised but is expected to be small.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A		Not Known (N/K)	N/K
High	N/A		N/K	N/K
Best Estimate	N/A		N/K	N/K

Description and scale of key monetised benefits by 'main affected groups'

There are no monetised benefits for this option.

Other key non-monetised benefits by 'main affected groups'

We have been unable to monetise benefits of this option, partly due to a lack of clarity at this stage of how this policy will be implemented. There is also a lack of clear evidence that suggests that mandatory reporting duties would reduce harm to children. Therefore, we are unable to quantify the expected crime reduction benefits (i.e. reduction in abuse) from introducing the new duty/offence. As a result, we do not present an overall Net Present Value figure for this policy option here, as it would be misleading. Nonetheless, this policy may reduce the level and severity of child abuse in two ways:

- Firstly, by requiring the reporting of child abuse this policy is expected to lead to the involvement of children's social workers earlier and in more cases, ensuring those best able to make an assessment about whether child abuse is occurring are in a position to do so at an earlier stage.
- Secondly, the policy may lead to increased awareness of the importance of reporting child abuse, both within mandated groups/organisations and within the community at large. Leading to more referrals and more timely interventions by social workers.

Key assumptions/sensitivities/risks

Discount rate (per cent)

3.5

There are two risks associated with Option 2, firstly that mandatory reporting may lead to an increase in the number of referrals, while decreasing their quality, potentially decreasing the overall effectiveness of children's social services. Secondly, that this policy will fail to tackle the underlying issues of why individuals do not report child abuse and instead will lead to a culture of reporting, rather than taking effective action. Key sensitivities include the estimated percentage increase in referrals to social services (indicatively modelled between 10% and 20%) and the percentage of professionals familiarising with new guidance (modelled as 75% to 100%).

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of BIT?	Measure qualifies
Costs: £0.19m	Benefits: £0	Net: -£0.19m	Yes	IN

Summary: Analysis & Evidence

Policy Option 3

Option 3: Introducing a 'duty to act' sanction in relation to child abuse: this would apply to a specific group of professionals and to organisations themselves. It may have professional or criminal sanctions attached to it. The criminal sanctions may be at an individual or organisational level (or both).

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period	Net Benefit (Present Value (PV)) (£m)		
			Low: NQ	High: NQ	Best Estimate: NQ
2015/16	2015/16	10 yrs			

COSTS (£m)	Total Transition		Average Annual	Total Cost
	(Constant Price)	Years		
Low	£7.3m	1	£8.0m	£76.0m
High	£9.7m		£39.8m	£352.0m
Best Estimate	£9.7m		£23.9m	£215m

Description and scale of key monetised costs by 'main affected groups'

As for option 2, option 3 will involve familiarisation costs for professionals within the domain of the new legislation. An estimated 2.8m professional staff will be required to read the guidance; this will result in an estimated one off cost of £9.7m, assuming that 100% undertake the familiarisation. Of these costs, an estimated £2.9m is expected to fall on businesses. The policy is expected to result in a smaller increase in referrals to Children's social services than Option 2 due to the differing focus of this policy. The extent of this increase is also very uncertain, but to provide an indicative cost we assume a 3% increase, resulting in 14,800 additional referrals. At an average cost of £1,600 per referral this will result in an additional cost of £23.9m per year. It is estimated that the cost to criminal justice system agencies per additional defendant proceeded against for failing to act on a report of child abuse will be approximately £12,000. [Note: this is not included in headline costs.]

Other key non-monetised costs by 'main affected groups'

As for Option 2, there would be a cost to professionals (and business) from making a report to social services and potentially a cost of an increased number of children looked after in foster or residential care. These are not yet monetised, however, we plan on researching this issue further during the consultation period. The range of possible sanctions at an individual and organisational level (e.g. covering referrals to the DBS, fines and remedial orders) have been identified and included in sensitivity analysis but are not robust enough to be included in headline costs. We also expect to gather further information, potentially informed by consultation responses, on the potential number of additional prosecutions per annum. There may also be some cost to new entrants in affected professions over time, in reading the additional guidance. This is not yet monetised but is expected to be small.

BENEFITS (£m)	Total Transition		Average Annual	Total Benefit
	(Constant Price)	Years		
Low	N/A		N/A	N/K
High	N/A		N/K	N/K
Best Estimate	N/A		N/K	N/K

Description and scale of key monetised benefits by 'main affected groups'

There are no monetised benefits.

Other key non-monetised benefits by 'main affected groups'

As with Option 2, we have been unable to monetise benefits for the options, partly due to a lack of clarity on how this policy would be implemented. There is also an absence of clear evidence on which to draw conclusions about the likely crime reduction benefits of this policy. Therefore, we are unable to quantify the expected crime reduction benefits (i.e. reduction in abuse) from introducing the new duty/offence. As a result, we do not present an overall Net Present Value figure for this policy option here, as it would be misleading.

Despite this, the measures in Option 3 are designed to reduce and level and harms of child abuse. While a failure to report duty focuses on increasing the reporting of known or suspected child abuse, a new duty to act focuses on the action taken in response to child abuse. The offence would be expected to reduce instances of deliberate or reckless behaviour in the response to child abuse, by requiring the professional to act promptly and effectively in relation to a case of abuse.

This option may also lead to greater awareness of the statutory duties of professionals, encouraging them to act sooner and therefore potentially preventing child abuse cases from worsening.

Key assumptions/sensitivities/risks

Discount rate (per cent)

3.5

There are two risks associated with Option 3, firstly that this policy will have little impact on the overall culture of reporting and secondly that there will be insufficient evidence in many cases to generate prosecutions. Key sensitivities include the estimated percentage increase in referrals to social services (indicatively modelled between 1% and 5%) and the percentage of professionals familiarising with the new guidance (modelled as 75% to 100%).

BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:			In scope of BIT?	Measure qualifies
Costs: £0.19m	Benefits: £0	Net: -£0.19m		
			Yes	IN

Evidence Base

A. Strategic Overview

A.1 Background

Practitioners and organisations who work with children, young people and families are under legal requirements to protect children and promote their welfare. Last year, over 650,000 referrals were made to Local Authority children's social care departments requesting social care support for children, including for those who may have been abused or neglected, or were at risk of such abuse (up nearly 11% on the previous year). Nearly 400,000 children were assessed by social workers as needing some support (up 5% on the previous year) and close to 150,000 child protection enquiries were carried out (up 12% on the previous year). Just under 50,000 children were placed on child protection plans during the year (up 13.5% on the previous year).

The figures show that practitioners working with children and young people and in related roles are generally making referrals to local authorities, as are members of the public, where they think that a child may be, or is being, abused or neglected. The figures also show that social workers are taking action to support vulnerable children. However, mistakes by practitioners do still occur, and in the worst cases such errors can be contributing factors in the death of a child or in significant harm happening to a child.

The Government is already taking action to reform the child protection system to create the right conditions for children to be better protected from abuse and neglect (outlined further in Section D). However, there have been calls for further changes to be made to the child protection system. During the passage of the Serious Crime Bill, the previous Government committed to undertaking a full, 12 week public consultation exercise on issue of introducing mandatory reporting of child abuse and neglect. In the *Tackling child sexual exploitation* report (March 2015), the previous Government also committed that this consultation would also explore other options for imposing sanctions for failure to take action on abuse or neglect where it is a professional responsibility to do so.

The consultation that this Impact Assessment (IA) supports is seeking views on whether such additional statutory duties should be put in place. These extra requirements would be in addition to the wider child protection system reform work that is underway. The consultation will seek views and evidence where possible as to whether additional legislation of this type would strengthen or weaken the current system. The purpose of the consultation is to genuinely seek a wide range of views on this highly complex issue to inform the Government's detailed and ongoing assessment as to whether a new duty is required.

The initial evidence contained in this impact assessment suggests a number of potential adverse affects of introducing a new statutory measure. It is important to note that our initial assessment and evidence base at consultation stage is incomplete. We do not, for example, have sufficient evidence to fully articulate the possible benefits of introducing a new statutory measure. We similarly do not have sufficient detail on the scale, nature and impact of the wider reform work that is underway in children's social care. It is therefore not prudent to indicate a preferred option at this stage of the process.

Ministers will consider the outcomes of the consultation exercise very carefully, to take full account of the views of all of those who respond before deciding on next steps. A report on the outcome of the consultation will be published and laid before Parliament.

A.2 Groups Affected

The following ‘groups affected’ applies to the two possible options for change (introducing the mandatory reporting of child abuse and neglect or a ‘duty to act’ sanction in relation to child abuse and neglect)

Our proposed starting position is that a new mandatory reporting duty or duty to in respect of abuse should apply as a minimum to individuals and/or organisations undertaking the activities outlined below. This impact assessment applies only to individuals and/or organisations in England, subject to further discussions with the Welsh Government about geographical scope. We would expect professionals bound under the duty to undertake some familiarisation activity. This will arise from revisions to the existing multi-agency statutory guidance document, *Working Together to Safeguard Children*, which would need to be amended to reflect any changes in law put in place following the outcome of the consultation exercise. The table below indicates the type of professional and/or organisation that will likely be covered by either option.

Organisations	Professional roles	Defined activities
Local authorities (including district councils)	Director of Children’s Services and other statutory chief officers and equivalents in other organisations	Managerial/supervisory role for others carrying out defined activities
Local authorities	Social workers Care assistants Care home managers	Social care
Local authorities	Housing officers	Housing
Schools	Teachers Teaching assistants	Education
Private, voluntary, independent and maintained sector early years providers (including childminders and children’s centres)	Early years daycare / sessional staff Nursery staff Childminders	Education Childcare
Police forces British Transport Police	Police officers Community support officers Civilian police staff	Policing/law enforcement
Health organisations (including the NHS commissioning board, clinical commissioning groups, special health authorities, NHS foundation trusts)	GPs Primary care professionals Paediatricians Nurses Health visitors Midwives Paramedics	Health care Social care
National Probation Service (NPS) and Community Rehabilitation Companies (CRCs)	Probation officers	Probation services

The consultation will consider whether these are the right type of activities/professionals/organisations to be within the scope of such duties, or whether the scope should be broader, for example to take in local political activity (elected councillors), recreational, sporting or other similar activities for children (sports coaches or people working in organisations acting in loco parentis such as the Scouts or Girl Guides), religious instruction for children, military service and information technology provision (for example computer technicians who might uncover images of abuse during computer maintenance).

A.3 Consultation

The consultation will run for **12 weeks**. It will be open to members of the public. We are particularly interested to hear from children and young people, social care, education and healthcare professionals, and from the police, criminal justice practitioners, victims and survivors of child abuse, community groups and leaders, regulatory bodies and local authorities.

Within Government

The Home Office and the Department for Education have worked jointly to produce the consultation document, and analysts from both Departments have developed this impact assessment, with additional input and support from the Ministry of Justice. This has helped to ascertain the potential effects and details of the highlighted policy options. We expect that the consultation exercise will help us to refine the options and assess possible costs and benefits more robustly to inform the final impact assessment which would be submitted if, subject to the outcome of the consultation, a new measure were to be introduced.

B. Rationale

Despite the significant progress to strengthen the child protection and safeguarding regime over a number of years, there have, unfortunately, been a number of child protection cases, both historic and more recent, which have highlighted mistakes by individual practitioners and organisations who are under legal requirements to protect children. A number of Serious Case Reviews – including those relating to the cases of Victoria Climbié and Hamzah Khan – have highlighted failures to share information among different agencies being a contributing factor in the death of a child, or significant harm to a child occurring. There are also cases where practitioners and organisations have not always reported or acted on abuse when it was in the best interest of the child to do so. This was the case in the tragic case of Daniel Pelka, where practitioners failed to act urgently and appropriately when they observed signs of abuse. In Rotherham, Rochdale and Oxfordshire, where there were failures to listen to children who reported child sexual exploitation.

Such failures to report or act on child abuse are often the result of many complex and interrelating factors, including genuine, inadvertent errors, perhaps arising because of a lack of training, information or understanding of risk, wider cultural and contextual factors, and in the worst cases reckless or deliberate behaviour to cover up abuse e.g. Rotherham. These sorts of occurrences have led to calls for the introduction of mandatory requirements or sanctions for failing to take actions in relation to known or suspected child abuse. The evidence to support the introduction of these measures is incomplete. It is similarly very difficult to identify clear trends throughout these failings which either isolate the issue to one of reporting or acting appropriately in response to child abuse or that supports the view that the Government's upcoming reform work will fully address these failings in every case.

C. Objectives

The main objective of child protection policy is to create a child protection system which works as effectively as possible to keep children safe from abuse and neglect. Where abuse does occur, the aim is to ensure that this is identified as soon as possible and that the right action is taken to protect the child or children involved and prevent further harm from occurring.

D. Options

The Government is committed to doing everything possible to reform the system of child protection in England to better protect children from abuse and neglect and ensure that when children do need help, they receive the right type of help at the right time. There is no 'do nothing' option. The consultation outlines three reform options, each of which is designed to address different issues and would likely lead to different outcomes.

In addition to the programme of whole system reform already underway and forthcoming, ministers are clear that they wish to consult widely on two core options relating to changes to existing

requirements around reporting or acting on child abuse and neglect; the introduction of a mandatory reporting duty or the introduction of sanctions in respect of a failure to meet a duty act in relation to such abuse or neglect. The consultation will, therefore, seek views on whether the Government's existing and forthcoming whole system reform programme should continue on its current trajectory and be given time to embed and deliver improvements or whether a new statutory measure focussed on reporting or acting on child abuse and neglect should be introduced at this stage. The consultation seeks views on the type of new statutory measure that could be introduced, the rationale for doing so, who the duty might apply to and what the corresponding sanctions might be. Should ministers decide that changes to the system are needed, following the outcome of the consultation, a final impact assessment would seek to build on this assessment by utilising information collected through the public consultation.

Option 1 – Continue the Government's whole system reform work

This option proposes that a new statutory measure would not be required at this stage, in part due to the ongoing work to reform how the whole system responds to cases of child abuse and neglect. The need for a new measure may be reconsidered following the implementation of these reforms, once their impact can be more clearly assessed.

Under the current legal framework, professionals and organisations with responsibility for child protection are subject to range of requirements to safeguard children and promote their welfare. Government statutory guidance is clear that safeguarding children and protecting them from harm is everyone's responsibility. Everyone who works with children has a key role to play in keeping them safe. *The Working Together to Safeguard Children (Working Together)* statutory guidance is very clear about the legal duties of organisations with child protection and safeguarding responsibilities.

Working Together is clear that an immediate referral to local authority children's social care (the agency with lead responsibility for the protection of children) should be made if practitioners believe that a child has been abused, or is at risk of being abused. All organisations should follow this guidance unless exceptional circumstances arise.

Working Together has been supplemented by the new *What to do if you're worried a child is being abused* document, which was published earlier this year. It aims to help practitioners identify when abuse might be occurring and provides advice on what to do next. There is currently no legal requirement on those working with children to report either known or suspected child abuse. However, as noted in section A.1, referrals to Local Authority children's social care are on the increase under the current reporting system.

The Government is engaged in a programme of child protection system reform, as outlined in the consultation document. This is focussed on three key pillars of reform activity:

- People and leadership – focussing on social work reform. This spans a programme of work to improve training and professional development for social workers, improving the skills and capacity of the social work workforce and the way they are led. This programme includes the Frontline and Step Up to Social Work entry programmes, which are raising the profile of social work amongst the best graduates and equipping them to make an immediate impact with families when they qualify. For the first time the Government is also setting out clear and challenging standards for social workers on the front line, as supervisors and as leaders of social work practices in a local area. This will be supported with robust assessments of whether social workers at each level meet those standards, driving better professional development throughout social workers' careers.
- Practice and systems – focussing on encouraging innovation in the children's social care system. This includes encouraging organisations to develop new, innovative and better ways of protecting children, building on the £100m already invested in more than 50 projects through the children's social care innovation programme.
- Governance and accountability – focussing on effective scrutiny and multi-agency working. This includes ensuring that multi-agency working between local agencies is operating effectively through a new multi-agency inspection system and putting in place systems to enable better sharing of evidence based good practice and to enable learning to be spread throughout the child protection system.

These reforms are intended to strengthen and build on the strong legislative and policy framework already in place. Some of this reform package is still under development and still to be announced. It is therefore not possible to be more detailed at this stage about the specific actions that will be taken.

In addition to this, the Government is delivering targeted reforms to address child sexual abuse and exploitation. These are set out in the *Tackling child sexual exploitation* report, published in March 2015. The reforms focus on strengthening accountability and leadership in professions and local government; improving joint working and information sharing; strengthening the protection of children at risk; reinforcing law enforcement efforts to stop offenders and providing greater support to victims and survivors. In particular, this includes launching a communications campaign to practitioners and the public to promote the messages contained in the 'What to do if you're worried a child is being abused' guidance and a new whistleblowing portal for child abuse and neglect cases. The Government is also developing a comprehensive training programme to raise the standard of the police response to child sexual exploitation. This includes addressing police behaviours and attitudes, support to victims and the importance of partnership working and information sharing. The National Policing Lead has also put in place regional CSE coordinators and analysts – paid for by £1.5 million of Government funding in 2015/16 – to ensure that forces are better tackling this crime. The initial outcomes and impact of this programme of work is currently being assessed.

It would therefore be difficult, at the pre-consultation stage, to indicate a preference for this option over and above the introduction of a new statutory measure, when much of the detail of this work is still unclear.

Overarching policy approach considered (options 2 & 3) – introduce a new statutory requirement (relating to reporting or acting on child abuse)

As already outlined, there are two broad possible changes which might be introduced following the outcome of the consultation exercise: the introduction of a mandatory reporting duty or the introduction of a new duty to act sanction. Both of these options are outlined in more detail below. There are, however, a number of features that would be common to both schemes, i.e. the activities/individuals/organisations that would be within scope (see section A2), the possible sanctions for failure to report/ failure in respect of a duty to act, the types of child abuse that would be within scope, and whether the scope would be restricted to knowledge of abuse that had happened or also take on suspicions of abuse that might have happened, or might be about to happen/at risk of happening.

The potential sanctions that might be made available for individuals and/or organisations in breach of either measure range from professional/disciplinary sanctions for individuals to criminal sanctions for both individuals and organisations, which might include fines, jail terms, and publicity/remedial orders (for organisations only). The consultation document outlines these in more detail and invites views as to whether the introduction of sanctions would likely change behaviour in the worst cases.

In relation to the types of abuse that would be within scope of mandatory reporting or a new duty to act, all forms of child abuse – physical, emotional and sexual (including child sexual exploitation) – and neglect can be equally harmful to children. Any new scheme that might be introduced would apply to all forms of abuse and neglect.

A new measure should apply to both known and suspected abuse. Including suspected abuse within scope of such a duty would arguably have preventative benefits; and would also match the reality of child protection where practitioners may frequently suspect that abuse is taking place but cannot categorically 'prove' or 'know' it to full degrees of certainty. These suspicions are critical in protecting children.

At this stage, the proposals contained in the consultation relate to the abuse of children under 18 years of age only.

Option 2 – Introduce a mandatory reporting duty in relation to child abuse

This option would see the introduction of a mandatory reporting duty in relation to child abuse for professionals and/or organisations undertaking certain kinds of work with children (see section A2).

Mandatory reporting is a term used to describe a legal duty imposed on certain groups, professionals or organisations to report child abuse and neglect to relevant authorities (in this case Local Authority children's social care). Following a report, appropriate follow up action may include a police investigation, a multi-agency intervention, or no further action, following an initial documented assessment.

It is difficult to be definitive about the effectiveness (or not) of mandatory reporting. Such a duty would likely increase the volume of reports made to children's social care. In theory, this might help to identify abuse more quickly to enable swifter preventative and protective action. However, the increased volume of reports might overwhelm the child protection system. This might mean that an increased number of unsubstantiated reports (i.e reports of children at risk that were later not confirmed as such) detracts from cases where children need help and protection, meaning that the system becomes slower to help these children. While mandatory reporting could encourage a stronger reporting culture, this might not necessarily be positive if that means that professionals 'pass the buck' and report to children's social care rather than trying to take preventative/protective action themselves. Mandatory reporting could also dissuade children from disclosing incidents for fear of being forced into legal proceedings.

Option 3 – Introduce a new duty to act sanction in relation to child abuse

A failure in respect of a new duty to act could trigger a sanction based on the existing wilful neglect offence in formal healthcare. Like the wilful neglect offence, a failure could trigger a sanction, perhaps a criminal offence, which could have both organisational and individual/professional level requirements or alternatively it could catch behaviour at just one of these levels.

An organisation within scope of a duty to act at corporate/ organisational level duty would be guilty of an offence if the manner in which its activities are managed or organised by its senior management is a substantial factor resulting in child abuse not being properly dealt with or, worse, concealed. This is based on Section 1 of Corporate Manslaughter and Corporate Homicide Act 2007.

An individual within scope of an offence would be guilty if they deliberately failed to act to stop/prevent child abuse while acting in their professional capacity (it would not apply to their personal life outside of work). A professional within scope would also be guilty of such an offence if they acted with reckless indifference as to whether such action was required or not.

Such an offence would not be applicable to professionals who make a reasonable decision not to take action based on the information available to them at the time or those who make genuine and inadvertent mistakes, which would effectively be an acceptable defence in respect of a charge of the offence. The offence would only apply in cases where there was sufficient information to demonstrate that professionals had either ignored child abuse or purposefully sought to cover-up or to conceal it. This might include deliberately failing to refer child abuse to Local Authority children's social care.

E. Appraisal (Costs and Benefits)

GENERAL ASSUMPTIONS & DATA

Estimated number of child abuse referrals made to social services in England

The total number of referrals to children's social care in England in 2013-14 was 657,800¹.

Not all of these referrals would be due to child abuse or neglect, but given the publically available data we cannot be certain of what proportion were due to these reasons. We do know that the proportion of all *children in need* that had 'Abuse or Neglect' identified as their primary need was 47% in 2013/14². This statistic cannot be used directly as a proxy for the proportion of all referrals that are due to child abuse or neglect. This is partly because the children in need statistic provides a snapshot at a set point in time, whereas the figure for referrals received is a statistic based on a whole year. In addition, while abuse or neglect may not be classified as a child in need's primary need, it is possible that it may still be a factor in a proportion of cases where the primary need is one other than abuse or neglect. It is probable therefore that 47% is an underestimate of the proportion of all referrals that currently occur due to child abuse and neglect. However, it would be inappropriate to assume that 100% of referrals are due to abuse and neglect, as some will be due to other primary needs (such as child or parent disability or illness). For now, we have selected a best estimate around mid-way between the lower and upper bound values of 47% and 100% – and assume that three-quarters of referrals to children's social services are due to child abuse or neglect. We will undertake further work during the consultation period to attempt to develop a better understanding of the number of referrals that currently occur due to child abuse and neglect. Taking 75% of all referrals (657,800) gives an estimated 493,350 referrals due to abuse or neglect in our central scenario.

Cost of a child going through the social service system

Our best estimate for the cost of a child being processed through the social service system is £1,614³.

Cost to professionals of making a referral

We recognise that there will be costs incurred by professionals when they refer a child to children's social services. There are a number of ways that referrals may be made to Local Authority children's social care services including by phone call, letter, email, in person etc. The cost of making a referral will depend not only on the method of referral, but also on how detailed the referral is and on the professional role of the individual making the referral. We do not have a reliable unit cost or time data to enable us to estimate this, but we have set out to explain the potential impact in the costs and benefits section below.

¹ Characteristics of children in need in England, 2013-14 by Department for Education, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/367877/SFR43_2014_Main_Text.pdf

² Characteristics of children in need in England, 2013-14 by the Department for Education, 47.2% of all children in need identified with 'abuse or neglect' as their primary need. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/367877/SFR43_2014_Main_Text.pdf

³ This estimate comes from research conducted by the Centre for Child and Family Research at Loughborough University which collected detailed social care activity data from four Local Authorities using a sample of 60 children between 1st October 2008 and 31st March 2009. They estimated the average total costs of the case management process for all children with varying types of need sampled over a six month period. The Department for Education is content with using an estimate of six months for the amount of time a child is dealt with by children's social services but we will carry out further analysis on this in the final stage IA. The original estimate (£1,416) has been uplifted for inflation. Data can be found at the below link at table 2, page 8. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/182479/DFE-RB056.pdf

Expected increase in referrals to children's social care

There is no directly applicable historic data on which to base an estimate for the likely increase in referrals due to the introduction of mandatory reporting or a new duty to act offence. International data is also mixed, and is not a reliable way of estimating the effect in England due to the differing nature of child protection systems, legislation and culture across different geographical jurisdictions. Given that a duty to act in respect of abuse has a different focus to a failure to report knowledge of suspected or known abuse, it is not expected that referrals would increase to the same degree. A new duty to act would focus on fulfilling all responsibilities in relation to safeguarding children, rather than on just reporting abuse. We explain this further, as well as our indicative estimates of the increase in referrals, in the costs and benefits section below.

Cost of an increase in the number of looked after children

We recognise that there may be an increase in the number of Looked After Children if option 2 or 3 were to be introduced. Based on section 251⁴ expenditure returns from Local Authorities in 2013-14 the annual spending per looked after child is, on average, around **£53,000**. We are not able to reliably estimate the possible increase in the number of Looked After Children at this stage, and so this potential impact does not form part of the headline cost estimates. Instead, we present a discussion of this potential impact and a highly indicative range of possible costs as a Sensitivity Analysis in Section F. We intend to further examine this potential impact during the consultation period.

Total number of professionals bound under either a mandatory reporting duty or a duty to act offence

a. Education professionals

Teachers and teaching assistants:

There are an estimated 552,000 teachers and 370,000 teaching assistants in England⁵. This covers both public and private institutions.

b. Childminders

There are an estimated 55,900 childminders⁶.

Staff working in day/sessional childcare provision.

There is 233,200 staff working in full day care provision of children and 67,000 working in sessional care⁷.

In total, we estimate there are 1.28m professionals in education and childcare that would be bound by either a mandatory reporting duty or a new duty to act offence⁸.

⁴ Section 251, Apprenticeships, Skills, Children and Learning Act 2009 requires Local Authorities to submit statements about their planned and actual expenditure on education and children's social care.

⁵ This is made up of 501,000 teachers and 362,000 teaching assistants in state funded schools. This is from 'headcount' figures in table 3a in the following link: <https://www.gov.uk/government/statistics/school-workforce-in-england-november-2014>

We estimate that there are 51,000 teachers in independent schools and 8,000 teaching assistants. More info on the proportion of education professionals in the private sector can be found in the 'Costs and Benefits' section.

⁶ These figures are from DfE's Childcare and Early Years Providers Survey 2013. Figures for registered childminders on chart 3.3 page 39 at the below link: <https://www.gov.uk/government/statistics/childcare-and-early-years-providers-survey-2013>

⁷ This can also be found in table 6.1, page 114 at the same link: <https://www.gov.uk/government/statistics/childcare-and-early-years-providers-survey-2013>

⁸ Nursery school teachers and teaching assistants are included in DfE's school workforce statistics. We have therefore not included figures for nursery staff to avoid double counting.

c. Healthcare

General Practitioners: We have estimated there are 54,000 General Practitioners in England⁹.

Nurses, Midwives and Health Visitors: We estimate that there are 565,000 nursing, midwifery & health visiting staff in England¹⁰.

Paramedics: We estimate that there are 17,300 paramedics in England¹¹.

Paediatricians: We have estimated there are 9,000 paediatricians¹².

d. Police officers and staff

There are 207,000 police officers or staff that would be bound under a mandatory reporting duty¹³.

Senior individuals may also be affected (e.g. Police and Crime Commissioners (PCC), of which there are generally one per Local Police Force in England (39),

e. Children's Care homes – assistants and managers

According to the Children's Homes workforce census there are approximately 20,000 staff currently working in children's homes, with on average 12 staff overall per care home, and 3.5 managerial staff¹⁴. This suggests that approximately 29% of care home staff are managers, giving a total of approximately 5,900 managers and 14,200 assistant staff.

f. Local Authorities (LAs) – Chief officers, social workers, housing officers

There are 36,960 relevant housing officers which would be affected by this duty¹⁵.

Child social workers

There are 26,810 children's social workers working in local authorities, plus a further 4,430 agency workers (total 31,240).¹⁶

⁹ Total number of registered General Practitioners, General Medical Council, as at September 2015 (Available at: http://www.gmc-uk.org/doctors/register/search_stats.asp). This figure has been adjusted to represent England only, based on 81.1% of all UK health professionals working in England.

¹⁰ Total number of Nurses and midwives are taken from the number registered under the Nursing and Midwifery Council. We apply the relevant population proportion of England (81.1%) to the UK wide figure to give us our estimate. The figure can be accessed on page 7 at the below link: http://www.nmc.org.uk/globalassets/sitedocuments/annual_reports_and_accounts/nmc-annual-report-and-accounts-2013---14.pdf

The number of health visitors is based on July 2015 statistics by NHS England. Figures are 'total established workforce' figures in England as at July 2015. This figure is 13,941 and the data can be accessed here, clicking on the relevant spreadsheet for July 2015:

<http://www.england.nhs.uk/statistics/statistical-work-areas/health-visitors/indicative-health-visitor-collection-ihvc/>

¹¹ The total number of paramedics in England is taken from the Health and Care Professions Council. There are 21,384 registered in the UK, we estimate the proportion in England by taking the relevant proportion of England's population (81.1%) from total figures.

<http://www.hcpc-uk.co.uk/aboutregistration/professions/index.asp?id=10>

¹² This is found by the number of paediatricians in the NHS (8,621) and the number working privately (387). The number working in the NHS can be found here, under table 7a row 16.

<http://www.hscic.gov.uk/catalogue/PUB16931/nhs-staf-2004-2014-medi-dent-bull-tabl.xls>

We have estimated the number working privately from the below link, which covers the number of private paediatricians in England.

<http://www.privatehealth.co.uk/doctors-and-health-professionals/paediatrician/>

¹³ We use the below link to find police workforce statistics. We include data for all police officers (table 1), all police staff (table 10), all PCSOs (table 11) and all special constables (table 13). We count data for English regions only as at March 2015.

<https://www.gov.uk/government/statistics/police-workforce-england-and-wales-31-march-2015-data-tables>

¹⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/391529/RR437_-_Children_s_homes_workforce_census.pdf

¹⁵ Figures are taken from all 'Housing Officers' in table 14 of the 2014 ONS Annual Survey of Hours and Earnings data (provisional results), taking 81% (England's population of the UK). <http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcn%3A77-337425>

Adult social workers

There are 530,000¹⁷ adult social workers in England¹⁸.

This gives us an estimated total of 560,000 social workers bound under the duty.

There are a maximum of 152 top tier Local Authority Chief Executives, Directors of Children's Services, Directors of Adult Social Services and Directors of Finance (1 of each per LA). In reality some of these posts may be combined (e.g. a single individual fulfilling the roles of Director of Children's Services and Director of Adult Social Services or some LAs sharing a single Director of Children's Services). It hasn't been possible to state precise numbers at this stage.

g. Probation officers

There are an estimated 4,335 probation officers in England¹⁹.

Total number of professionals affected by the policy

In total, we estimate there will be 2.8m professionals that would be bound under either a mandatory reporting duty or a duty to act offence.

The total number of professionals is illustrated in table 1 below.

Table 1: Total number of professionals affected by either a duty to act offence or mandatory reporting duty²⁰.

Professional	Amount
Social workers	560,000
Director of children's services	152
Housing officers	37,000
Childminders	55,900
Staff in full day care provision	233,000
Staff in sessional care provision	67,000
Teachers	552,000
Teaching Assistant	370,000
Police officers and staff	207,000
GPs	54,000

¹⁶ Figures for social workers can be found on the following link: <https://www.gov.uk/government/statistics/childrens-social-work-workforce-2013-to-2014>

¹⁷ It should be noted these are a combination of public and private sector employees.

¹⁸ Data obtained from the Health and Social Care Information Centre. It can be found here <http://www.hscic.gov.uk/searchcatalogue?productid=17291&topics=1%2fSocial+care%2fSocial+care+workforce&sort=Relevance&size=10&page=1#top>. These only cover those in the public sector. For those employed privately, we use the National Minimum Data Set for Social Workers workforce figures tool found here <https://www.nmds-sc-online.org.uk/reportengine/GuestDashboard.aspx?type=StaffProfile>. We filter for social workers, senior care workers, care workers and others directly involved in providing care.

¹⁹ Data taken from workforce figures for probation officers in the National Probation Service (NPS) and those working in Community Rehabilitation Centres. Staff in the NPS can be found on table 11 here. There are 3,210 probation officers in England and Wales, of which 180 are in Wales. This gives us an estimated figure of 3030 probation officers in England. <https://www.gov.uk/government/statistics/national-offender-management-service-workforce-statistics-june-2015>. Staff in CRCs can be found on table 3 below, we do not include the staff count for Wales. Table 3 shows that Wales only account for 7% of total staff figures. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/381036/crc-workforce-information-summary-report-q2-2014-15.pdf. The National Offender Management Service (NOMS) have informed us that probation officers only under 'Pay band 4 – PQF qualified' should be counted as probation officers in CRCs. from the 2014 ONS Annual Survey of Hours and Earnings (provisional results), taking 84% of England's population from the overall figure. We use workforce figures from table 14 here <http://www.ons.gov.uk/ons/rel/ashes/annual-survey-of-hours-and-earnings/2014-provisional-results/index.html>

²⁰ This table excludes workforce figures for senior police managers. This is because, we cannot estimate the average hourly cost of this group (see below), and have hence been omitted from our analysis.

Professional	Amount
Nurses, midwives, and health visitors	565,000
Paramedics	17,000
Probation	4,300
Paediatricians	9,000
Care home assistants	14,200
Care home managers	5,900
Total	2.8m

Familiarisation

There will be familiarisation costs associated with both options, as professionals would need to become familiarised with a new duty or offence. Under both options, this would most likely be in the form of a revision to existing statutory guidance, which professionals would need to read. Familiarisation costs are expressed as an opportunity cost; the value of professionals' time spent reading the new sections of guidance, rather than carrying out other duties for which they are paid. In this sense, familiarisation would not impose direct financial costs on individuals or their employers, but it would represent an economic cost of the policy. The guidance would be updated on the gov.uk website which would entail no circulation costs. The total cost of familiarisation will depend on three factors:

1. How long it takes to read guidance,
2. How many professionals would, actually, read the guidance
3. The hourly cost associated with each professional group.

We have had to make reasonable assumptions for the above three factors due to the absence of relevant data. These assumptions are set out below.

1. Time taken to read guidance

We estimate that the new guidance necessary would be no longer than a single side of A4 in HM Government's 'Working Together to Safeguard Children' statutory guidance. We estimate that it would take no more than 10 minutes for professionals to read the new section of the revised statutory guidance, irrespective of whether professionals read the section of the guidance itself, or have the information passed to them by other mechanisms. All professionals will already be fully aware of the current arrangements to report and act appropriately to suspicions and knowledge of child abuse, so an individual would simply need a reasonable period of time to read and understand the changes that might be made following the outcome of the consultation exercise. We will seek to refine this estimate further through our set of engagements with professional bodies during the consultation exercise.

2. Number of professionals that would read guidance

We cannot be certain of how many professionals would actually read the updated guidance in practice. Despite the significance of the possible changes, we do not think that every professional in every relevant organisation will read the statutory guidance document itself. The percentage of professionals reading the guidance is likely to vary depending on the organisation (it may be for example, that in certain organisations only the safeguarding lead would read the revised statutory guidance itself). However, we think that all of those within scope of the possible new duties or offences would want to be aware of their responsibilities and would have the relevant sections of the new guidance passed to them by other means. This might be in the form of an email cascade, or through items in staff newsletters or meetings etc. We have therefore estimated that 100% of professionals within scope of the possible new duties or offences would read the relevant information in one form or another. This gives us a best estimate of 2.8m professionals. We will seek to refine this estimate further through our set of engagement with professional bodies during the consultation exercise.

The assumption that 100% of professionals will familiarise with the new guidance forms our best and higher estimates of the cost of this policy. To demonstrate the sensitivity of this assumption, we also present a lower cost estimate, in which only three-quarters of professionals read the guidance.

3. The time cost of each professional group

Table 2 below outlines the average hourly cost of each professional group. The ‘ten minute’ costs are derived from the hourly figures and given in the adjacent column. All hourly costs, except for police officers and staff and Director of children’s services, are taken from the Office for National Statistics Annual Survey of Hours and Earnings (2014, provisional results) using the ‘mean’ average. All estimates are uplifted by 19.8% (in line with Eurostat guidance) to take account of non-wage related labour costs and rounded to the nearest pound. Figures for police officers and staff are Home Office internal estimates which also include a wide range of non-wage costs.

Table 2: Average hourly and ten minute cost of each professional group²¹

Professional	Hourly cost	Cost per ten minutes
Social workers	£20	£3
Director of children’s services	£80	£13
Housing officers	£16	£3
Childminders	£10	£2
Staff in full day care provision	£11	£2
Staff in sessional care provision	£11	£2
Teachers	£27	£4
Teaching Assistant	£11	£2
Police officers and staff	£37	£6
GPs	£42	£7
Nurses, midwives, and health visitors	£22	£4
Paramedics	£22	£4
Probation	£21	£3
Paediatricians	£42	£7
Care home assistants	£10	£2
Care home managers	£30	£5

Costs of Potential Sanctions

The consultation will seek views on a range of possible sanctions at both the individual and organisational level for both the mandatory reporting and the duty to act option. These include corporate offences such as fines, remedial and publicity orders, individual criminal offences such as jail sentences or fines, and professional sanctions, such as periods of retraining or additional supervision, professional censure, or referrals to the Disclosure and Barring Service (DBS). The full costs and impacts of all these variables will be worked up during the consultation stage. We will consult widely with all the relevant professional bodies and regulators (including the DBS) to provide robust costings for these options.

²¹ Rounded the nearest £. All hourly costs, except for police officers/ staff and Directors of Children’s Services, are taken from the ONS Annual Survey of Hours and Earnings 2014 (Provisional results, occupation table 14.5a) using the ‘mean’ average. All estimates are uplifted by 19.8% (in line with Eurostat guidance, (http://ec.europa.eu/eurostat/statistics-explained/index.php/Hourly_labour_costs) to take account of non wage related costs. As there is no mention specifically of ‘care home managers’ we use ‘Health and social services managers’ as a suitable proxy. Similarly, we use ‘Childcare and related personal services’ as an estimate for ‘staff in full day care provision’ and ‘staff in sessional care provision’ of children. Figures for police officers and staff are Home Office internal estimates. We have estimated that the average salary for a Director of Children’s Services is £137,700 (This is based on research findings of the salaries of Directors of Children’s Services across 14 Local Authorities in England, uplifted by 19.8 %). Assuming 46.6 working weeks in a year and 37 hours per week gives us an hourly cost estimated of £79.87. The research findings can be found at the below link. <http://democracy.york.gov.uk/documents/s84045/Annex%20A%20Directors%20Childrens%20Social%20Care%20Benchmarking.pdf>

Criminal Sanctions

Cost of a Prosecution

For each option two costs to the Criminal Justice System (CJS) are considered:

1. The costs associated with prosecuting more perpetrators of child abuse, should mandatory reporting or a duty to act be introduced and result in more instances of abuse being brought to light.
2. The costs associated with prosecuting those who fail in their duty to report (under Option 2) or fail to act (under Option 3), which could be individual professionals, corporate bodies or professionals.

For both options, we are not currently able to estimate costs associated with prosecuting more perpetrators of child abuse (1), but we will work with the Ministry of Justice (MoJ) to produce an estimate of the cost of additional prosecutions for child abuse. We have however engaged with the MoJ to estimate the possible costs of criminal sanctions for failure to report and a new duty to act (2).

To establish a unit cost for this, we make use of data on the CJS costs of a similar offence. For both options we have used the same proxy offence: “ill-treatment or neglect of a person lacking capacity by anyone responsible for that person’s care” (s44 of the Mental Capacity Act 2005²²). This offence is triable either way (please refer to the glossary in **Annex B** for a description of these terms and others) with a maximum sentence of 5 years imprisonment on conviction on indictment. No decision has been made about the appropriateness of these sanctions in relation to the possible options outlined in the consultation. At this stage we are merely attempting to provide an indication of the possible costs of sanctions.

The figures below provide an initial estimated cost per additional defendant²³ proceeded against for each of the above offences. All costs are weighted to account for the proportion of defendants tried in either the magistrates’ court or Crown Court (where applicable). The cost provided is an estimated average cost of a proceeding from the beginning of that proceeding to the end of the case (whether the offender is found guilty or not and accounting for the range of disposals possible).

Using internal 2014 MoJ data from the relevant proxy offence, the estimated costs to the CJS for each additional defendant proceeded against for failing to report and/or act on child abuse are approximately £12,000²⁴ for individual professionals. For corporate bodies or partnerships the estimated cost is lower. This is because an organisation could not receive a prison sentence or probation and would be only receive legal aid in very limited circumstances. This would mean that the only costs for organisational sanctions would be for the Crown Prosecution Service and HM Courts and Tribunal Service, estimated at £4,200 per organisation proceeded against. Costs for each new offence have only been estimated for each additional defendant proceeded against as there is still uncertainty around volumes. Once there are more robust estimates of these then we can finalise the overall impact to the CJS.

Estimated CJS costs per additional defendant proceeded against²⁵

Cost estimates have been produced using unit costs for different parts of the CJS. There are some assumptions and caveats associated with these, and these must be quoted in published documents. See **Annex C** for a full outline of the assumptions and associated risks, and see below for a further breakdown of the costs to each CJS agency.

²² The assumption to use the 2005 Mental Capacity Act 2005 is owned by The Home Office. <http://www.legislation.gov.uk/ukpga/2005/9/section/44>

²³ This includes CPS and HMCTS costs which are calculated on a per case basis.

²⁴ Rounded to the nearest £1,000 and in 2014/15 prices.

²⁵ All costs in this section have been rounded to the nearest £100 and are in 2014/15 prices. The costs below may not sum to the total CJS costs per defendant because of the rounding convention used.

CPS and HMCTS costs

Prosecution costs to the CPS and court costs to HMCTS are higher in the Crown Court (CC) than the magistrates' court (MC).

Costs to the CPS per case are estimated to be approximately as follows:

Offence	CPS cost per case
Non-reporting/duty to act on a report of child abuse	£2,600

Costs to HMCTS per case are estimated to be approximately as follows:

Offence	HMCTS cost per case
Non-reporting/duty to act on a report of child abuse	£1,600

Legal Aid (LA) costs

LA eligibility and costs also differ in the MC and CC; typically a higher proportion of defendants are eligible in the CC where costs are also higher²⁶.

It is assumed for both of the new offences that the eligibility rate in the magistrates' court is 50% and that the eligibility rate in the Crown Court is 100%.

Costs to the Legal Aid Agency (LAA) per additional defendant proceeded against are estimated to be approximately as follows:

Offence	Legal aid cost per additional defendant proceeded against
Non-reporting/duty to act on a report of child abuse	£5,100

Prison and Probation (NOMS) costs

Prison costs

The average prison costs per proceeding are weighted by the estimated proportion of defendants proceeded against who receive a custodial sentence and the average custodial sentence length (ACSL) served²⁷. It is assumed for both of the new offences that an offender will serve half of the ACSL given.

Probation costs:

Post-release probation

It is assumed for both of the new offences that an offender given a custodial sentence will serve half of their sentence in custody and half of their sentence or a minimum of 12 months on licence or post-sentence supervision (Offender Rehabilitation Act 2014). It is assumed that the cost of this supervision would be equivalent to the cost for post-release licence. This component of the probation costs is weighted by the proportion of defendants proceeded against who receive a custodial sentence.

Community/Suspended sentences

The cost of probationary sentences per start is calculated. The cost per start is weighted by the proportion of defendants proceeded against who receive either a community or suspended sentence.

²⁶ Legal Aid eligibility in the magistrates' court is dependant on a defendant passing the interests of justice test, and a means test. For more information, see: <https://www.gov.uk/legal-aid/eligibility>

²⁷ The ACSL served is usually half that of the ACSL given by the court; however this may not be the case for more serious offences where the whole tariff is served instead.

The time served (in months) and total prison/probation costs per additional defendant proceeded against are estimated to be approximately as follows:

Offence	Average custodial sentence length served (months) ²⁸	Costs per additional defendant proceeded against		
		Prison cost	Probation cost (Post-sentence supervision)	Probation cost (disposal as community or suspended sentence)
Non-reporting/duty to act on a report of child abuse	4	£1,700	£500	£800

Fines and other financial impositions

For the purposes of disaggregating by offence type, it is currently not possible to calculate the income received from financial impositions or the cost of enforcing them. This is due to the way that HMCTS currently collects data.

Number of additional prosecutions

We have not been able to robustly estimate volumes at this stage. The costs associated with increased prosecutions are not included in Net Present Value (NPV) figures as the volume estimates are not fully robust at this stage. We plan on gathering information to better inform a final figure on the expected increase in prosecutions, including through consultation responses. However, we have provided a simple sensitivity analysis to illustrate indicative scenarios for both options. This can be found in Section F. Here we present these initial indicative ranges.

Prosecutions of Individuals

We have not been able to robustly estimate volumes at this stage. We do not have enough evidence to reliably assess the number of arrests for failing to report under Option 2. However, our tentative estimate would be that this would be no higher than 20-30 per year. In turn, it follows we expect the number of prosecutions for failing to report to also be relatively low. To provide an indicative cost, we have assumed around 12-15 per year, but this assessment will continue to be worked on. An indicative estimate for the number of prosecutions for failing to act on child abuse under Option 3 might be around half of this figure, so around 6-8 prosecutions per year. Our estimate for a new duty to act is lower than that for mandatory reporting because we expect instances where professionals deliberately or recklessly fail to take appropriate action would be quite rare.

Corporate Prosecutions

We would expect the number of prosecutions to be low for either option, were it to be introduced, and likely to be a maximum two per year. We do not have clear evidence to support this, although we have looked at inquiries and serious case reviews over the past year to see which organisations may have been culpable under the new offence to guide our assumption. This figure also reflects the number of prosecutions made against organisations under Corporate Manslaughter (16 prosecutions over a 7 year period).

²⁸ Rounded to the nearest whole month.

Professional Sanctions

There would also be an option of imposing a professional sanction (as opposed to criminal) on an individual for a proven failure to report child abuse or neglect, or failure to take action in relation to child abuse or neglect. This could involve, for example, requiring their professional censure via the sector regulatory body or requiring a period of additional supervision or review, which was also recorded so other potential employers could be aware of this too, if necessary. This could be implemented by a referral directly to the regulatory body or to the Disclosure and Barring Service (DBS). The DBS would, under business processes to be agreed in the future, then record the specific sanction details and its duration and reference that on any future DBS disclosure regarding the individual (for example if they subsequently changed posts or sectors). If deemed necessary due to the level of the failure, DBS would add the relevant details to a DBS managed 'barred' list, for a specific duration.

The consultation will seek views on the appropriateness and practicalities of such sanctions, as well as considering the scope for a similar approach to apply at organisational level.

Cost of Handling Cases

Based on 2014-15 cost for actual DBS referrals for barring decisions, the assumed costs for a DBS referral per case is £360. There would also be an additional one-off cost for amending DBS technical systems and a certificate handling cost in each case, both of which are difficult to quantify without clear details of the actual arrangements proposed.

A registered social worker's fitness to practice can be investigated by the Health and Care Professions Council (HCPC). Any case that meets the standard of acceptance, following initial enquiries, will be investigated by a case manager and an investigating committee panel will decide on the basis of evidence gathered whether there is a case to answer. If so, solicitors will prepare a case to be heard by the Conduct and Competence Committee of the Health Committee. The panel can impose a range of sanctions including cautioning the social worker, specifying conditions of practice they must work under, or suspending or striking them off the register. The decision can be appealed by the registrant to the High Court and the Professional Standards Authority can challenge the decision if they believe it is unduly lenient.

Disciplinary procedures for teachers are handled by the National College for Teaching and Leadership (NCTL), but only in cases where the school that employs them considers dismissal appropriate as this is the only sanction this body can impose. Prior to reaching this stage, cases of teacher misconduct would be the responsibility of the school under their local misconduct procedures. These procedures are determined autonomously but according to ACAS guidance ought to involve a formal meeting with the employee after which a decision is reached about issuing a warning or some other form of disciplinary action and there should be a procedure for the employee to appeal. Cases referred to NCTL follow a similar process to that of the HCPC. Cases that are assessed as representing serious misconduct will be formally investigated with the teacher possibly prohibited from teaching in the interim. The case would then be heard by a Professional Conduct Panel who would decide whether to prohibit the teacher from teaching and for how long. When a teacher has been prohibited they can appeal the decision to the High Court and also apply to the Secretary of State to have their prohibition reviewed after a minimum period (at least two years).

Research carried out by the Centre for Health Service Economics and Organisation (CHSEO) for the HCPC found that the average cost per case across the 16 professions regulated by the procedure in 2012-13 was £5,439 for cases that did not proceed to a panel hearing and £33,403 for cases that did. The overall average cost per case to HCPC was £9,228²⁹. This includes legal fees, the cost of staff investigation time and the cost of panels but excludes the cost of appeals and wider costs, such as the cost to the individual registrant of attending a hearing or to their employer of replacing them. Out of the 2,130 cases examined 79 (3.7%) resulted in a professional being struck off or voluntarily removed from the register.

²⁹ Redding, S. and Nicodemo, C., *The costs of fitness to practice: a study of the Health and Care Professions Council*, HCPC 2015

Volumes

In line with the adopted approach to estimating numbers of prosecutions under the legal sanctions option, the costs associated with professional sanctions are not included in Net Present Value (NPV) figures as the volumes cannot be robustly estimated at this stage. Instead, we consider this in the sensitivity analysis section below, in which we show the estimated costs if there were around 20 cases of failing to report abuse (under Option 2) or act on abuse (under Option 3), as well as the costs if the volumes were higher or lower. We also present some cost estimates for professionals being struck off.

COSTS AND BENEFITS OF OPTIONS

Option 2 – Introduce a mandatory reporting duty in relation to child abuse

COSTS

One off transitional costs

Familiarisation

As set out in the assumptions section, there will be familiarisation costs associated with this option. We provide a central estimate of professionals who will familiarise themselves with the new guidance of 100%. We have applied this to our estimated number of professionals that would be affected by this policy, giving us an estimated 2.8m professionals who would familiarise themselves with the new guidance. We also present a lower bound scenario of 75%. As the 100% central estimate is the maximum possible, we do not present an upper bound. Our range is presented in tables 3 and 4 below.

Table 3: Cost figures assuming a 100% undertaking familiarisation, split evenly across all professional groups (central estimate).

Professional	Familiarisation cost
Social workers	£1.9m
Director of children's services	£2,000
Housing officers	£98,900
Childminders	£97,600
Staff in full day care provision	£411,400
Staff in sessional care provision	£122,800
Teachers	£2,482,100
Teaching Assistant	£667,800
Police officers and staff	£1,276,500
GPs	£374,700
Nurses, midwives, and health visitors	£2,113,000
Paramedics	£60,300
Probation	£15,000
Paediatricians	£62,400
Care home assistants	£24,200
Care home managers	£29,300
Total	£9.7m

Table 4: Cost figures assuming a 75% undertaking familiarisation, split evenly across all professional groups (upper bound estimate).

Professional	Familiarisation cost
Social workers	£1.4m
Director of children's services	£1,500
Housing officers	£74,200
Childminders	£73,200
Staff in full day care provision	£308,500
Staff in sessional care provision	£92,100
Teachers	£1,861,500
Teaching Assistant	£500,900
Police officers and staff	£957,400
GPs	£281,000
Nurses, midwives, and health visitors	£1,584,700
Paramedics	£45,200
Probation	£11,300
Paediatricians	£46,800
Care home assistants	£18,100
Care home managers	£21,900
Total	£7.3m

As seen above, depending on the percentage undertaking familiarisation, our cost estimates vary from £7.3m to £9.7mm. Our best estimate is the latter, with 100% of professionals reading the guidance; £9.7m. These are opportunity costs, which is the value of professional time, rather than financial costs. We will seek to refine estimates of many professionals would undertake familiarisation through our consultation exercise.

Ongoing costs

Familiarisation

Our view is that the familiarisation cost for new entrants to professions within scope of the possible new requirements would be negligible as it would be covered as part of their normal training and professional induction.

Local Authority children's social care services

As Local Authority children's social care services are the agency responsible for dealing with referrals relating to concerns about child abuse or neglect, additional cost burdens will be placed on them, in line with the likely increase in referrals that would result from the introduction of a mandatory reporting duty. We expect an increase in referrals to social services as a result of the option; however, we cannot be certain on the size of the increase.

Estimating the extent to which statutory mandatory reporting of child abuse and neglect would impact on the referral rates in England is difficult. Due to the fact that this is a new legislative proposal, there is no historic English data on which to base an estimate for the increase in referrals due to mandatory reporting. Countries such as the US and Australia have introduced mandatory reporting regimes, but certain factors prevent meaningful comparison using the limited international evidence on the subject.

Firstly, the starting points of abuse referral rates vary greatly between countries. A report commissioned by the DfE in 2011 found that England had a higher and more consistent average annual rate of referral across the 2000-2010 period, when compared to Australia and the US.³⁰ For example, England's rate was significantly higher than that of Australia's at the start of the period (at 51.2 and 30.4 referrals per 1,000 children respectively). Australia's rate rose to above that of England in the mid-2000s, as many Australian States and Territories extended the scope of their mandatory reporting legislation and practices, but fell to a comparable rate at the end of the period. Secondly, attributing any of this change to mandatory reporting must be done in the context of other factors; the authors highlight that rates in each country are likely to be influenced variously by changes in policies and practices in state child protection systems, broadening definitions of child abuse and increased professional and community awareness regarding child abuse and neglect. No studies we have examined have separated out the impact of mandatory reporting alone. Thus, using a simple 'rate' measurements of referrals, e.g. per 1,000 children, as evidence of the impact of mandatory reporting cannot give meaningful estimates of impact, unless it is assumed that all other factors bearing on referral rates remain equal over the implementation period. In all examined evidence this assumption is known to be incorrect.

Nonetheless, we recognise that there is potential for a significant increase in the reporting of child abuse as a result of this policy. The increase in referrals from 2012-13 to 2013-14 (the latest published data) was 10.8%, during which time the statutory reporting requirements did not change, demonstrating that increases of over 10% are plausible. We take this as our starting point – an indicative lower bound estimate of a 10% increase in referrals, relative to the do nothing status quo scenario, due to mandatory reporting. An indicative upper bound is double this – a 20% increase. To form a central indicative estimate, we take the mid-point of this range: a 15% increase in referrals resulting from the introduction of a mandatory reporting duty. **These figures should be treated as indicative rather than authoritative – it is entirely possible that the actual increase could be much higher or lower than this.** The lack of available or relevant data has necessitated an indicative approach at this stage – the intention is to demonstrate what the cost might be if referrals increased by a certain amount.

A 10% increase in referrals would constitute around 49,335 additional children referred to children's social care services for abuse and neglect per year, with 15% and 20% increases corresponding to 74,000 and 98,670 increases respectively. Our best estimate for the cost of a referral made to social services is £1,614 (2015 prices). Cost estimates are presented in tables 6, 7 and 8 below.

Table 5: Cost estimate of a 10% increase in referrals.

Increase in referrals	Average cost per referral	Total estimated cost
49,335	£1,614	£79.6m

Table 6: Cost estimate of a 15% increase in referrals.

Increase in referrals	Average cost per referral	Total estimated cost
74,003	£1,614	£119.4m

Table 7: Cost estimate of a 20% increase in referrals.

Increase in referrals	Average cost per referral	Total estimated cost
98,670	£1,614	£159.3m

Our cost estimates range from £79.6m for £159.3m, with our central indicative estimate at £119.4m, depending on the increase in referrals made to social services.

³⁰ Munro, E. & Manful, E. (2012). Safeguarding children: a comparison of England's data with that of Australia, Norway and the United States. *Department for Education*, London. Available at online at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/183946/DFE-RR198.pdf

Cost to professionals of making a referral

We also recognise that there will be costs incurred by professionals when they refer a child to children's social services. We do not currently have reliable unit cost or time data to enable us to estimate this, so at this stage we have just identified and detailed this potential impact.

Following a referral to children's social care services a range of action may be taken, which will involve the involvement of either the individual who originally made the referral and/or other agencies like the police or the health service. A referral could take different forms, including: a telephone call to children's social care services, a formal discussion in a multi-agency meeting, or a letter or email to children's social care services.

In all cases, the social worker should clarify with the referrer, when known, the nature of the concerns and how and why they have arisen. This will most likely be through a telephone or face to face conversation. In addition, if a social worker undertakes an assessment, other professionals are likely to be involved in that process. If the case proceeds through the system to a strategy discussion the police and health service would be involved at a minimum, but others, like education or childcare professionals and the professional who made the referral, may also be involved.

If a crime has been committed, the Local Authority will also refer the matter to the police to investigate. The police will also be involved in a number of section 47 enquiries³¹ (undertaken if the Local Authority has reasonable cause to suspect that a child who lives, or is found, in their area is suffering, or is likely to suffer, significant harm), as will health professionals who may need to undertake specialist medical assessments. Such professionals would also be involved in child protection conferences and reviews, which take place in an inter-agency setting and plan how best to safeguard and promote the welfare of the child.

If emergency protection is needed at any stage, an application to the courts may be necessary. Alternatively, the police have emergency protection powers that can be used in exceptional circumstances.

Cost of an increase in the number of looked after children

As discussed in the assumptions section above, there could also be a cost associated with looking after more children, should more instances of abuse come to the attention of local authorities. The potential increase cannot be accurately estimated, but some scenarios are presented in the sensitivity analysis section below.

Cost of Sanctions

We have included a sensitivity analysis based on indicative estimates of the increased number of sanctions as a result of the policy. However, these estimates are not yet robust enough to include in our overall cost figure, and have therefore been omitted from our NPV figures. Section F includes a simple sensitivity analysis to show the impacts of different scenarios

Business Impact

There will be costs imposed on businesses as a result of this option. This is due to the time spent by professionals on reading the updated guidance (familiarisation) and due to the cost to private sector professionals of making referrals. In respect of the former, it should be noted that the costs presented are a subset of the costs set out above – they are not additional to them. This is because our headline estimates for the number of professionals does not distinguish between private and public sector employees. This section makes that distinction.

Costs to businesses of making referrals

As outlined above under 'ongoing costs', privately employed professionals and, therefore businesses will incur some costs in making referrals to children's social services. We do not

³¹ Section 47, Part V, Children's Act 1989 – a Local Authority's duty to investigate.

currently have reliable unit cost or time data to enable us to estimate this, but the nature of this cost is described above.

Familiarisation costs

The familiarisation costs imposed on private sector businesses will depend on three factors:

- a) How many private sector employees engage in familiarisation (reading guidance).
- b) How long it takes to read the guidance.
- c) The average cost of reading per professional group.

Parts b) and c) have been outlined already in the assumptions section, and remain the same. The average estimated time to read any updated statutory guidance is 10 minutes and the average time cost per professional group is presented again in table 9 below.

Table 8: Average hourly and ten minute cost per professional group

Professional	Hourly cost	Cost per ten minutes
Social workers	£20	£3
Director of children's services	£80	£13
Housing officers	£16	£3
Childminders	£10	£2
Staff in full day care provision	£11	£2
Staff in sessional care provision	£11	£2
Teachers	£27	£4
Teaching Assistant	£11	£2
Police officers and staff	£37	£6
GPs	£42	£7
Nurses, midwives, and health visitors	£22	£4
Paramedics	£22	£4
Probation	£21	£3
Paediatricians	£42	£7
Care home assistants	£10	£2
Care home managers	£30	£5

For part a), we present our analysis below, split by professional group.

Education

We estimate that 52,000 teachers and 8,000 teaching assistants currently work in independent schools. This is based on the total number of independent teachers and teaching assistants in the UK: 56,295 and 8,320, figures are obtained from the Independent Schools Commission Census³². Again using information from the independent schools census, we adjust these figures based on the number independent school places that reside in England as a proportion of all UK places: approximately 91%³³.

According to the Childcare and Early Years Providers Survey, there are currently 55,900 childminders in England³⁴. Registered childminders are self-employed so we have included them as part of the private or voluntary sector.

In addition to childminders, there are also childcare staff working in day-care or sessional care provision. We have used figures from the Department for Education's 2013 Childcare and Early

³² This can be found on table 19, page 40 at the below link. http://www.isc.co.uk/media/2661/isc_census_2015_final.pdf

³³ According to the Independent Schools Census, there are 512,048 independent schools places in the UK. Of these 465,536 reside in England. This is an approximate proportion of 91%.

³⁴ https://www.gov.uk/mwg-internal/de5fs23hu73ds/progress?id=qepLhdVa2hZm84PyQmA-PZ1oKyVt_8wefUN2jJk9QzQ.&dl

Providers Survey to calculate that 89% of staff in day/sessional care are employed in the private or voluntary sector. This means there are estimated to be 207,000 staff in full day care provision and 60,000 staff in sessional care provision which are employed privately.

We use the above information to estimate the following number of education professionals working in the private sector.

Table 9: Estimated number of education professionals employed in the private sector

Professional	Private sector
Teachers	51,000
Teaching Assistants	8,000
Childminders	56,000
Staff in full day care provision	207,000
Staff in sessional care provision	60,000
Total	382,000

Social Care

Children's Care homes

According to the Children's Homes workforce census there are approximately 20,000 staff currently working in children's homes³⁵. With on average 12 staff overall per care home, and 3.5 managerial staff. This suggests that approximately 29% of care home staff are managers, giving a total of approximately 5900 managers and 14,200 staff.

Information from the Children's Care home Data Pack³⁶ suggests that 63% of care homes are privately run. If we assume that managers and staff are uniformly distributed across private and public care homes, this implies that 3,700 manager's work and 9,000 staff work in private care homes.

Table 10: Number of care home managers and assistants that work in the private sector.

Professional	Private sector
Care home managers	3,700
Care Assistants	9,000
Total	13,000

Adult social care

There is an estimate 400,000 adult social workers working privately in England³⁷. This also supports the existing literature that the majority of social care jobs are now commissioned to private companies or fall directly in the private/voluntary sector³⁸.

This gives us an estimated 410,000 social workers that work privately.

³⁵ [https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/391529/RR437 - Children s homes workforce census .pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/391529/RR437_-_Children_s_homes_workforce_census_.pdf)

³⁶ [https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/388701/ Childrens Homes data pack Dec 2014.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/388701/Childrens_Homes_data_pack_Dec_2014.pdf)

³⁷ This is estimated using the workforce structure tool on the National Minimum Data Set for Social Care website. We filter all social workers, senior care workers, care workers and other roles directly involved in providing care, and for all private and voluntary organisations.

³⁸ [http://webarchive.nationalarchives.gov.uk/+www.dh.gov.uk/en/SocialCare/Aboutthedirectorate/ Howsocialcareisdelivered/index.htm](http://webarchive.nationalarchives.gov.uk/+www.dh.gov.uk/en/SocialCare/Aboutthedirectorate/Howsocialcareisdelivered/index.htm).

Also page 23 at the following publication <http://www.skillsforcare.org.uk/Document-library/NMDS-SC,-workforce-intelligence-and-innovation/NMDS-SC/Size-and-structure/Size-and-structure-report-2015.pdf#page=23>

Healthcare

There is no published or recorded data on the number of healthcare professionals that work in the private sector. All private sector healthcare employees will already be accounted for in our 794,000 figure outlined in our assumptions section. However, many of the professionals that work in the private sector also work in the public sector too³⁹. In the analysis below we have attempted to identify those who work solely in the private sector.

For GPs, we have assumed that the number working in the private sector is the number registered with the General Medical Council, multiplied by 81.1% to represent those in England only, minus the Health and Social Care Information Centre (HSCIC) 2014 NHS England count of GPs⁴⁰. The GMC register captures all GPs registered to practice in the UK, so subtracting in this way gives a private sector estimate.

For nurses, midwives and health visitors, we have assumed that the number working in the private sector is the number registered under the Nursing and Midwifery Council and published by NHS England, again adjusted by 81.1% to represent those in England only, minus the number of nurses, midwives and health visitors working in the NHS⁴¹. The Nursing and Midwifery Council cover both public and private sector, so subtracting NHS data from this gives us a private sector estimate.

For paramedics, we assume there are virtually no private paramedics operating in England⁴².

For paediatricians, we have assumed that the number working in the private sector is as per those registered by the GMC, again multiplied by 81.1% to represent those in England only. We have then estimated that 7% of this number are practicing privately, based on a recent report which includes estimates of private consultants working in the UK healthcare sector. This report suggests that there are 3,000 private consultants in, which represents 7% versus an HSCIC NHS consultant staff count of 42,000⁴³.

This information is presented in table 12 below.

Table 11: Estimate of amount of healthcare professionals working in the private sector, based on the above assumptions for each type of professional.

Professional	Private
GPs	14,000
Nurses, midwives and health visitors	188,000
Paediatricians	400
Total	202,400

Other professionals

We recognise that there will be both individual probation workers and social workers employed by private agencies delivering these public services, on behalf of local or central government. Like the other professionals within scope of the options for change outlined above, these professionals will spend some time familiarising themselves with possible new requirements (expressed as an opportunity cost). Assuming no loss of income to these private agencies, it is therefore appropriate to characterise these opportunity costs as costs to the public sector rather than to business. Similarly, throughout this impact assessment we treat the additional referrals to social services as a

³⁹ <http://bma.org.uk/practical-support-at-work/life-and-work-in-the-uk/doctors-new-to-the-uk/how-things-work-in-the-uk>

⁴⁰ The number of GPs working in NHS settings in England is approximately 40,000. This can be found on cell O11 at the below link. We minus this figure (40,000) from the total number of estimated GPs registered under the General Medical Council in England (54,000) to give us an estimate of 14,000 GPs that work privately.

⁴¹ The number of nurses, midwives and health visitors in the NHS is 377,191. The number of nurses, midwives and health visitors in public and private institutions is 565,176. This gives us an estimated private figure of 187,895.

⁴² This is based on the total figure of 17,000 working in the private and public sector. According to NHS statistics, there are 17,000 working in the NHS already. This would mean there are no, or very little, private paramedic staff. Data for paramedics in England can be found on table 5, row 13 and 14 at the below link. We have been advised by the Department of Health to include 'ambulance technicians' in our count for paramedics.

⁴³ <http://www.hcpc-uk.co.uk/aboutregistration/professions/index.asp?id=10>

<http://www.kingsfund.org.uk/sites/files/kf/media//commission-appendix-uk-private-health-market.pdf>

public sector cost, since the public sector will have to deal with any increase in demand on this public service.

Total number of professionals working in private institutions

The estimated total number of professionals employed in the private sector is shown in table 13, alongside the time cost of familiarisation as previously outlined.

Table 12: Estimated number of professionals, bound under the duty, employed privately and the individual time cost to each of familiarisation.

Professional	Amount	Ten minute cost
Childminders	55,900	£2
Staff in full day care provision	207,000	£2
Staff in sessional care provision	60,000	£2
Teachers	51,000	£4
Teaching Assistant	8,000	£2
GPs	14,000	£7
Nurses, midwives, and health visitors	188,000	£4
Paediatricians	400	£7
Care home assistants	9,000	£2
Care home managers	3,700	£5
Adult social care	400,000	£3
Total	997,000	

Our best estimate for the total number of professionals affected in the private sector is 1m..

As previously, we have assumed centrally that 100% of professionals will read the guidance, with a lower bound estimate of 75% to demonstrate a scenario of some professionals not doing so. Cost estimates are outlined in tables 14-16 below.

Table 13: Cost figures assuming a 100% of professionals read guidance, split evenly across all professionals employed privately.

Professional	Familiarisation cost
Childminders	£97,600
Staff in full day care provision	£365,500
Staff in sessional care provision	£110,000
Teachers	£229,300
Teaching Assistant	£14,400
GPs	£97,100
Nurses, midwives, and health visitors	£703,100
Paediatricians	£2,800
Care home assistants	£15,300
Care home managers	£18,400
Adult social workers	£1,200,000
Total	£2,9m

Table 15: Cost figures assuming a 75% of professionals read guidance, split evenly across all professionals employed privately.

Professional	Familiarisation cost
Childminders	£73,200
Staff in full day care provision	£274,100
Staff in sessional care provision	£82,500
Teachers	£172,000
Teaching Assistant	£10,800
GPs	£72,900
Nurses, midwives, and health visitors	£527,300
Paediatricians	£2,100
Care home assistants	£11,500
Care home managers	£13,800
Adult social workers	£900,000
Total	£2,140,100

Our cost estimates to private businesses range from £2.1m to £2.9m, depending on the percentage of professionals reading guidance. Our best estimate is the centrally assumed 100% scenario, so £2.9m.

We acknowledge that potential sanctions may also be a cost to business, however, these are costs associated with non compliance as have therefore not been included in our Business Impact Target.

BENEFITS

We have been unable to monetise benefits for the options, because there are so many variables in precisely how a new duty could be imposed, on whom and with what the sanctions would be. There is also a lack of evidence concerning the effectiveness of either mandatory reporting or duty to act. Therefore, we are unable to quantify the possible benefits to children of being better protected from abuse or the possible crime reduction benefits from introducing options 2.

The rationale for option 2 is that earlier reporting of child abuse and neglect would lead to swifter interventions that would prevent an escalation into even more serious cases of child abuse or neglect. In theory, this is because requiring reports about child abuse and neglect to be made to the relevant authorities would result in more cases of abuse being identified, and at an earlier point in a child's life than a system which allows more discretion. It then follows that such a system would ensure that those best placed to make judgements about whether abuse and/ or neglect is occurring (i.e. children's social workers) would make these judgements, because discretion is removed from others who might not be trained to the same extent.

Secondly, the benefits could be that the introduction of a new duty, and the publicity associated with it, could lead to increased awareness of the importance of reporting child abuse, both within mandated groups/organisations and within the community at large. It follows that this would, in turn, help to overcome and reluctance to report, whatever the reasons for such reluctance.

It is, however, possible that these theoretical benefits will not be realised in practice, or will be outweighed by the possible negative consequences of introducing such a duty.

Option 3 – Introduce a new duty to act offence in relation to child abuse

COSTS

Transitional costs

Familiarisation

As mentioned in the ‘assumptions’ section, familiarisation costs are the same for option 2. Our assumptions are the same. This means our cost estimates range from £7.3m to £9.7m. Our best estimate is £9.7m. These are opportunity costs, which are the value of professional time spent reading guidance, they are not financial costs.

Ongoing costs

Children’s social care services

Given that a duty to act duty has a different focus to a failure to report one, it is not expected that referrals would increase to the same degree. We therefore estimate that the increase in the number of referrals made to Local Authority children’s social care services would be less than the increase expected under a mandatory reporting duty. Again, **at this stage we can only provide indicative figures of what the cost might be for an arbitrary increase in referrals.** It is entirely possible that the actual increase could be higher than this, or there could be no significant increase at all. We provide an indicative referral increase scenarios of 1, 3 and 5 percent, with a central indicative estimate of 3%.

Table 17: Cost estimates based on a 1-5% increase in referrals made to social services

a) 1% increase

Increase in referrals	Average cost per referrals	Total estimated cost
4,934	£1,614	£7.96m

b) 3% increase

Increase in referrals	Average cost per referrals	Total estimated cost
14,800	£1,614	£23.88m

c) 5% increase

Increase in referrals	Average cost per referrals	Total estimated cost
24,667	£1,614	£39.81m

Therefore, the cost to social services under Option 3, based on indicative estimates at this early stage, range from £7.96m to £39.81m per annum. **Our central indicative estimate is £23.88m.**

Cost of Sanctions

We have included a sensitivity analysis based on indicative estimates of the increased number of sanctions as a result of the policy. However, these estimates are not yet robust enough to include in our overall cost figure, and have therefore been omitted from our NPV figures. Section F includes a simple sensitivity analysis to show the impacts of different scenarios.

Cost to professionals of making a referral

In line with the discussion for Option 2 costs, there could also be costs to professionals for making more referrals to social services. This has not been monetised at this stage, but is expected to be lower under Option 3 (due to a smaller assumed increase in referrals) than Option 2.

Cost of an increase in the number of children looked after in residential or foster care placements

As discussed in the assumptions section above, there could also be a cost associated with looking after more children, should more instances of abuse come to the attention of Local Authorities. The potential increase cannot be accurately estimated, but some scenarios are presented in the sensitivity analysis section below. This cost would also be expected to be lower under Option 3 (due to a smaller assumed increase in referrals) than Option 2.

Business Impact

We use the same assumptions as Option 2; therefore, the estimated cost to businesses varies from £2.1m to £2.9m dependent on the proportion of professionals reading the guidance, with a best estimate of £2.9m.

As with option 2, we do not include potential sanctions in our business impact target, as they are costs associated with non compliance.

BENEFITS

Again, we have been unable to monetise benefits for the options, because there are so many variables in precisely how an offence could be imposed, on whom and with what the sanctions would be. Therefore, we are unable to quantify the possible benefits to children of being better protected from abuse or the possible crime reduction benefits from introducing option 3 .

The measures in Option 3 would be designed to ensure that appropriate action is taken in relation to child abuse and neglect, and ensure that such abuse and neglect cannot be concealed or covered up. While a failure to report duty focuses on increasing the reporting of known or suspected child abuse, a duty to act duty would bite more broadly on the action taken in response to child abuse. This might include failure to report in certain cases, for example if there was clear evidence that this failure to report was due to deliberate or reckless behaviour. The offence would be expected to reduce instances of deliberate or reckless behaviour in the response to child abuse, by requiring the professional to act promptly and effectively in relation to a case of abuse. Such an offence may result in swifter action, potentially meaning that certain child abuse cases do not escalate to the same degree they might have otherwise done. Such an offence may also result in swifter action; potentially meaning that child abuse does not escalate to the same degree might have been the case.

As in relation to option 2, however, it is possible that these theoretical benefits will not be realised in practice, or will be outweighed by the possible negative consequences of introducing such a sanction.

F. Risks and sensitivities

Risks

Option 2 – Introduce a mandatory reporting duty in relation to child abuse

- a) There is some evidence to suggest that mandatory reporting laws tend to increase the volume of reports of child abuse, but there is no clear evidence to show that they reduce child harm (as measured by child mortality) (see NSPCC 2007).
- b) There is evidence to suggest that existing mandatory reporting regimes can lead to unintended adverse consequences, such as creating a culture of reporting rather than acting or dissuading children from disclosing incidents for fear of being forced into hostile legal proceedings.
- c) The duty can, at least initially, create a significant increase in the number of reports to statutory agencies. This could lead to diversion of resources from provision of support and services for actual cases of child abuse, into assessment and investigation. Linked to this is the risk that children who are being abused or at risk of being abused are less likely to be identified and helped than they were before the introduction of the duty.
- d) There is some international evidence to suggest that mandatory reporting increases the volume of reports, but decreases the quality/substantiation of reports. For example, evidence from Australia shows that while mandatory reporting may increase the numbers of reports, it might also reduce the overall quality of the reports made. In 1999-2000, New South Wales (a jurisdiction with mandatory reporting) had significantly lower substantiation rates than Western Australia (which at the time did not) – 21% against 44%.
- e) Information about a child may appear in different contexts to different people in different organisations. It is questionable how effective mandatory reporting would be in these cases as the level of suspicion each professional has could be too low to present concern. There is also the wider question of how investigators would decide who specifically was at fault in these cases (e.g. a teacher may have evidence that on its own did not amount to reasonable suspicion, but taken with information that they may not have access to in a health setting would raise concerns).
- f) Mandatory reporting does not tend to address the underlying behaviours/attitudes concerning reporting abuse. Research has indicated that mandated reporters may not have faith in child protection services, experience practical difficulties with reporting (including ensuring own anonymity), and, ultimately, may not believe that reporting abuse will help the child.⁴⁴ Conversely, positive attitudes to mandatory reporting and child protection services more generally have been associated with increased likelihood of reporting.⁴⁵

Option 3 – Introduce a new duty to act offence in relation to child abuse

- a) The offence may catch the worst failures in the safeguarding system, but it could be argued that it would not go far enough in changing the culture of reporting child abuse.
- b) There is a risk that professionals may react badly to the introduction of a new duty to act sanction which may adversely affect recruitment and retention for professional roles in scope.
- c) There is a small risk that the introduction of sanctions for a duty to act could weaken the Crown's case in child abuse prosecutions. If, for example, a practitioner had access to information that could support a prosecution but that same information could also potentially

⁴⁴ Choo et al. (2013); Fraser et al. (2010); Bean et al. (2011); Bryant and Baldwin (2010); Mallén, 2011

⁴⁵ Fraser et al. (2010)

incriminate them in respect of a duty to act, it may as a disincentive for them to come forward.

- d) There is a more general risk that sanctions for failure to act (or indeed mandatory reporting) may not in themselves lead to changes in behaviour and that other measures or incentives would be more effective at addressing the identified problem. This could be particularly acute in situations where there are already significant failings. There is however no evidence to directly support this view. There is mixed evidence that increasing the severity of sanctions can be effective in deterring would-be offenders. Some studies⁴⁶ have found that when the severity of sanctions is accurately conveyed to the potential offender and the likelihood of apprehension is perceived to be sufficiently high, this can be effective. However, these studies were specifically in relation to acts of crime and offenders. The measures under consideration in this Impact Assessment cover a much wider range of sanctions and the potential causes of breaches would likely be much more nuanced (e.g. covering genuine errors and mistakes up to more deliberate failings). We cannot therefore use this evidence to inform our view.

Sensitivity analysis

This section presents cost estimates for two cost categories: a potential increase in the number of looked after children; and the range of potential sanctions.

Looked After Children

In recent years, the number of referrals has fluctuated while the number of Looked After Children (LAC) at 31 March has increased steadily at 1% or 2% a year. As such, the number of referrals is not a good predictor for the number of looked after children. However, if there is a significant increase in the number of referrals, it is possible that there will be an impact in the number of LAC. To provide a reasonable indicative range, we can assume that an increase in referrals could result in an increase of between 0% and 2% on the current value of LAC (68,840 at 31 March 2014). As with the cost analysis above, any impact would likely be larger for Option 2 than for Option 3, since the estimated increase in referrals is larger for Mandatory Reporting.

A 0-2% increase would translate to between zero and 1,380 extra looked after children. Based on section 251 expenditure returns from local authorities in 2013-14, the annual spending per looked after child is, on average, around £53,000. This means the total additional cost in terms of LAC of between £0 (no increase) and £73m (a 2% increase). We intend to further examine this potential impact during the consultation period.

Sanctions

Prosecutions of Individual Professionals

At this early stage, we cannot confidently estimate the increased number of prosecutions as a result of Option 2 or 3. We assess that a reasonable indicative estimate at this stage for Option 2 is 12-15 prosecutions per annum. Indicatively, our best estimate for Option 3 is around half of this figure, so 6-8 prosecutions per annum. However, we appreciate that the actual number of prosecutions could well fall outside of these ranges, so we have presented a simple sensitivity analysis below to illustrate this. We expect to update this range with more confidence, partly informed by consultation responses, as well as prosecution data for similar offences. We present each option in turn.

⁴⁶ For example: Bell, B., Jaitman, L., & Machin, S. (2014). Crime Deterrence: Evidence From the London 2011 Riots. *The Economic Journal*, 124(576), 480-506; and Helland E, Tabarrok A. 2007. Does three strikes deter? A nonparametric estimation. *J. Hum. Resour.*42:309–30

Option 2 – Mandatory reporting duty

At this stage, our best indicative estimate is around 12-15 prosecutions per annum. Using our estimated prosecution cost from the relevant proxy offence, this gives us a best indicative estimate of £164,000⁴⁷ per annum.

Table 18 – Sensitivity cost analysis of number of prosecutions from a mandatory reporting duty

Number of prosecutions	5	Best indicative estimate	100
Indicative cost	£60,000	£162,000	£1,200,000

As can be seen from Table 18, if the number of prosecutions were as low as five per year, we would expect a cost to the Criminal Justice System (CJS) of £60,000. If it was 100, a cost of £1.2m would be expected, based on the relevant proxy offence we have chosen.

Option 3- A Duty to Act Offence

At this stage, our best indicative estimate is around 6-8 prosecutions per annum. Using our estimated prosecution cost from the relevant proxy offence, this gives us a best indicative estimate of £84,000 per annum.

Table 19: Sensitivity cost analysis of number of prosecutions from a duty to act offence

Number of prosecutions	1	Best indicative estimate	50
Indicative cost	£12,000	£84,000	£600,000

As can be seen from Table 19, if the number of prosecutions were as low as a single case per year, we would expect a cost to the CJS of £12,000. If the number was 50, a cost of £600,000 would be expected, based on the relevant proxy offence we have chosen.

These figures are not included in our total cost calculations as they are not yet appropriately robust. We intend to strengthen this assessment through the consultation period.

Corporate Prosecutions

For corporate bodies or partnerships the estimated cost is lower, at just £4,200 per organisation proceeded against. We also estimate that there would be fewer of these prosecutions. As such, we would expect these costs to be negligible when compared to the other costs considered in this IA.

Professional Sanctions

In line with the approach used to estimate numbers of prosecutions under the legal penalties option, we provide cost estimates for an indicative figure of 20 cases of failing to report or act on abuse in total across all regulatory bodies each year. Based on the CHSEO research referenced above, we assume an average cost per case for all regulatory bodies of £10,000. We therefore estimate that total additional annual costs associated with professional misconduct procedures in these cases is around £200,000. The projected numbers of cases is subject to significant uncertainty, with large implications for this total cost estimate. If the total number of cases were as low as 5 per year the total cost would be £50,000 but if they were as high as 150 the total cost would be £1.5 million. The estimated cost will be refined in the final stage IA.

Out of the 2,130 cases examined by the CHSEO, 79 (3.7%) resulted in a professional being struck off or voluntarily removed from the register. We therefore estimate that the member of staff might be struck off in 1 in 20 of these cases and their employer will incur a cost in replacing them. A study by Oxford economics of firms across five economic sectors finds that the cost to employers of

⁴⁷ This is based on 13.5 prosecutions per year

hiring temporary cover and recruiting and inducting a new professional employee averages around £5,000 per worker replaced.⁴⁸ Around £4,000 of this is the gross cost of temporary cover and £1,000 the cost of recruitment and induction. Assuming 75% of the gross cost of temporary cover would have been incurred anyway by paying a permanent member of staff, the net cost of replacement cover would be around £1,000, which combined with the cost of recruitment and induction provides an estimate of the total net cost of replacing a professional employee of around £2,000. As this is a relatively small cost, we exclude it from our estimate of the total costs of this policy option. However, clearly, if the number of cases (or the rate of cases resulting in individuals being struck off) is substantially higher than we estimate, this cost would become more significant.

There may be scope for the Disclosure and Barring Service (DBS) to be involved in delivering and/or record professional sanctions, for example adding an individual or organisation to a barred list or recording a specific sanction on a Disclosure Certificate for a period of time. If this were proposed, we would need to consider the scope for, and costs of, and such arrangements with DBS. Naturally, this consideration may be informed by consultation responses.

G. Enforcement

Depending on the sanction in place, it would be the responsibility of: the employers; professional regulators; Disclosure & Barring Service; and/or the police and the courts to ensure that this was enforced.

H. Summary and Recommendations

The table below outlines the estimated monetised costs of the two options, presented in present values terms over ten years.

Table H.1 Costs and Benefits

Option	Costs	Benefits
2	£1,038m This includes the cost of familiarisation and the cost to social services of dealing with an increase in referrals. This does not include the potential costs to professionals of making more referrals to social services or costs of familiarisation for new professionals.	Not monetised
3	£215m This includes the cost of familiarisation and the cost to social services of dealing with an increase in referrals. This does not include the potential costs to professionals of making more referrals to social services or costs of familiarisation for new professionals.	Not monetised

⁴⁸ The cost of Brain Drain: Understanding the financial impact of staff turnover, Oxford Economics, 2014

I. Implementation

The consultation exercise will run for twelve (12) weeks. The outcome of the consultation exercise will be reported to Parliament by September 2016 (i.e. within 18 months of Royal Assent of the Serious Crime Bill, as the Government committed to do). Should Ministers decide then to introduce legislative changes as a consequence of the consultation exercise, these will be brought forward by the Government as usual and in due course. Subject to Parliamentary approval, that would be followed an agreed timetable for implementation, supported by revised statutory guidance.

The Home Office and Department for Education would work with relevant Government departments (i.e. the Department of Health and the Ministry of Justice) to ensure the implementation of a new measure offence was brought forward effectively and ensure an implementation plan is prepared and put in place.

J. Monitoring and Evaluation

The effectiveness of the new arrangements, for example monitoring of the impact of a duty, would, as a minimum, be measured through ongoing DfE data collections (i.e. the children in need census) and police and courts data on subsequent arrests and prosecutions. A full monitoring and evaluation plan would be developed ahead of implementation.

K. Feedback

Subject to bringing forward and implementing new requirements, the Home Office and DfE would continue to hold regular engagement with key partners, including the police, professional regulators and national child protection agencies, to gather on-going feedback.

Small/ Micro business assessment (SAMBA)

The options contained in the consultation are likely to impact on a range of small/ micro businesses – such as small private nurseries, early years providers (including child minders), and including a range of child and adult care providers.

Adult social care

There will be a number of small micro businesses in the adult social care sector who could be impacted by the options in this consultation. We have been unable to quantify these impacts at this stage but will seek to address that in the final proposal and its full impact assessment.

Children's homes

Unpublished data from the 2015 DfE children's homes workforce census shows that 38% of children's homes are micro businesses and a further 61% are small businesses. This translates to 605 micro businesses and 971 small businesses out of a total of 1,592 private or voluntary owned Ofsted registered children's homes at 31st March 2015.

Early years

Unpublished data from the DfE Childcare and Early Years Providers Survey 2013 indicates that 16% of early years providers (full day care and sessional) have fewer than 10 employees and 13% have more than 20. The 13th edition of the Laing Buisson Children's Nurseries UK Market Report (2014), considering nursery providers only, shows that the 92% of nursery providers outside of the top 40 have an average of 45 child places and so are likely to employ fewer than 50 staff. In the absence of more complete or detailed data, we therefore estimate that there are 3,665 full day care or sessional early years providers which are micro businesses (16% of an estimated total of around 22,905 providers recorded in the providers survey) and a further 17,408 that are small businesses

(76% of the total). In addition, we estimate that 100% of the 55,900 registered childminders recorded in the providers' survey are self-employed and so qualify as micro businesses.

Rationale for inclusion within scope

Child abuse can occur in any setting. The professions identified in the consultation are those that are most likely to encounter child abuse during their day to day work. These professions and settings play a fundamental and critical role in identifying and acting on child abuse, no matter how small the specific business in question may be. There have been a number of serious incidents involving the care of a child that have occurred in small or micro early years settings, including childminders. One relatively recent high profile example, which attracted significant media attention, occurred in a nursery in Plymouth in 2009. In this case a nursery worker was arrested and subsequently charged with four counts of sexual assault and three counts of distributing indecent images of children. There have also been a number of historic allegations of child abuse in children's homes. Operations Daybreak and Xeres, for example, which have been widely reported in the media, are Nottinghamshire police investigations into alleged abuse in a number of children's homes in Nottinghamshire and Derbyshire.

The reputational damage that could be caused by cases of child abuse in small and micro businesses can be extensive. Often, this can mean that such a business folds, either voluntarily or because their registration is cancelled (meaning that they can no longer legally operate). The possible incentive to conceal or cover-up abuse in such settings could therefore be just as strong as in larger organisations.

Given the proportion of the early years and children's homes sectors which we estimate would fall into the category of small or micro business, excluding such small and micro businesses from the scope of the new potential duties/sanctions would severely limit their potential effectiveness and reach in these sectors. For these reasons practitioners working in small and micro businesses/small and micro businesses themselves must be subject to a new duty or offence in order for the duty or offence to be effective, fair and consistent. Subject to the outcome of the consultation exercise, any final proposals will be carefully framed to also take into account any actual burden on small/ micro businesses. The consultation will seek to gather evidence from all (as it is a public consultation) including small/micro businesses on how this measure can be implemented in the least burdensome way for those businesses.

We estimate that any cost impact on small and micro businesses will be proportionate, i.e they will not be disproportionately affected. This is because every business has familiarisation costs proportionate to the number of employees.

Annex A – Professionals/organisations that would be bound under either option 2 or 3.

Organisations	Professional roles	Defined activities
Local authorities (including district councils)	Director of Children’s Services and other statutory chief officers and equivalents in other organisations	Managerial/supervisory role for others carrying out defined activities
Local authorities	Social workers Care assistants Care home managers	Social care
Local authorities	Housing officers	Housing
Schools	Teachers Teaching assistants	Education
Private, voluntary, independent and maintained sector early years providers (including childminders and children’s centres)	Early years teachers Nursery staff Childminders	Education Childcare
Police forces British Transport Police	Police officers Community support officers Civilian police staff [designated police staff]	Policing/ law enforcement
Health organisations (including the NHS commissioning board, clinical commissioning groups, special health authorities, NHS foundation trusts)	GPs Primary care professionals Paediatricians Nurses Health visitors Midwives Paramedics	Health care Social care
National Probation Service (NPS) and Community Rehabilitation Companies (CRCs)	Probation officers	Probation services

Annex B – Details of proxy offences for failing to report/act and child abuse

Glossary

Cost per defendant: The cost per defendant is a cost per person proceeded against. It is a weighted cost that accounts for the proportion of defendants tried in the magistrates' and Crown Court, the proportion of offenders sentenced to each disposal and the average time those sentenced to a custodial sentence spend in prison. It tells you the average cost of a proceeding from the beginning of that proceeding to the end of the case (whether the offender is found guilty or not and accounting for the range of disposals possible).

Criminal Justice System: The CJS encompasses the Crown Prosecution Service (CPS), Her Majesty's Courts and Tribunals Service (HMCTS), the Legal Aid Agency (LAA) and HM Prison and Probation Services.

Crown Court: Deals with the more serious, triable either way or indictable cases, for example murder, rape and serious fraud/theft. In the Crown Court, whether the defendant is found guilty or not guilty is decided by a jury.

Disposal: The end result of a trial at court. In this publication the disposals of interest are sentences, but other disposals are possible, for example where there is no finding of guilt and the defendant is acquitted.

Indictable Only Offence: An offence that is triable only in the Crown Court; all proceedings will start in the magistrates' court but will be sent straight for trial in the Crown Court.

Magistrates' Court: Magistrates cannot normally order sentences of imprisonment that exceed six months (or 12 months for consecutive sentences), or fines exceeding £5,000. The magistrates' court deals with summary only offences. Some cases are triable-either-way in either magistrates' courts or the Crown Court.

Proceeding: The start of legal action brought against somebody charged with committing a criminal offence.

Summary Only Offence: An offence that is triable only in the magistrates' court; all proceedings will start and end in the magistrates' court.

Triable Either Way Offence: An offence that is triable in either the magistrates' court or Crown Court. Some proceedings will start and end in the magistrates' court whereas others will start in the magistrates' court but end in the Crown Court. In triable either way cases, defendants can elect to stand trial in the Crown Court or they can be sent for trial in the Crown Court because the offence is deemed serious enough.

ANNEX B: Progression of cases through the CJS¹

It is envisaged that there will be two new triable either way offences, both of which will have a maximum sentence of 5 years imprisonment on conviction on indictment:

- Non-reporting of child abuse.
- A duty to act on a report of child abuse.

A proxy offence was used to model the flow of the two new offences through the CJS. The following proxy offence was suggested for both new offences²:

- **Non-reporting of child abuse /duty to act on a report of child abuse:** the proxy offence of ill-treatment or neglect of a person lacking capacity by anyone responsible for that person's care (S.44 Mental Capacity Act 2005³) was used. This offence is triable either way with a maximum sentence of 5 years imprisonment on conviction on indictment.

Data from 2014 for these proxy offences and CJS agency costs (2014/15 prices) have been used to estimate the impact to the criminal justice system.

Assumptions	Risks
<p>Proportion of cases tried in the magistrates' court vs. the Crown Court</p> <p><u>Duty to act/report on a report of child abuse</u></p> <ul style="list-style-type: none"> • It is assumed that 24% of defendants are tried in the magistrates' court and 76% are tried in the Crown Court. 	<ul style="list-style-type: none"> • More defendants may be tried in the Crown Court where the costs of trials are more expensive.
<p>Proportion of defendants found guilty</p> <p><u>Duty to report/act on child abuse</u></p> <ul style="list-style-type: none"> • It is assumed that 50% of defendants are convicted. 	<ul style="list-style-type: none"> • More defendants will be convicted which could lead to higher costs. • If the number of trials started is different to the number of defendants sentenced, the figures would be different.
<p>Disposals given:</p> <p><u>Duty to act/report on child abuse</u></p> <ul style="list-style-type: none"> • It is assumed that of those sentenced after conviction, around 36% of offenders are given a custodial sentence. <p>Average custodial sentence length (ACSL):</p> <ul style="list-style-type: none"> • Average custodial sentence length excludes life and indeterminate sentences for all offences. <p><u>Duty to act/report on a report of child abuse</u></p> <ul style="list-style-type: none"> • It is assumed that the ACSL would be approximately 9 months. <p>Post-sentence supervision:</p> <ul style="list-style-type: none"> • Offenders given a custodial sentence of under 24 months will serve half of their sentence in custody and a minimum of 12 months on licence or post-sentence supervision as set out in the Offender Rehabilitation Act 2014. 	<ul style="list-style-type: none"> • A higher proportion of offenders could be given a custodial sentence which would increase costs. • That the ACSL given is longer, meaning costs would be higher. • Actual costs of post-sentence supervision may be lower than estimated.

¹ All costs provided below have been rounded to the nearest £100 and are in 2014/15 prices.

² These assumptions are owned by the Home Office.

³ <http://www.legislation.gov.uk/ukpga/2005/9/section/44>

<ul style="list-style-type: none"> It is assumed that the cost of this supervision would be equivalent to the cost for post-release license. 	
<p>New policies</p> <ul style="list-style-type: none"> Our analysis does not take into account the possible interaction with other policies that have not yet been commenced. 	<ul style="list-style-type: none"> There is the risk that such policies, once commenced, could have an impact on the base case set out in this impact assessment. As a result, the associated impacts may be under or over estimated.

Cost assumptions

CPS costs, advocacy costs:

- The estimated CPS costs consist of two broad categories, advocacy costs and Activity Based Costings (ABC). The primary purpose of the ABC model is resource distribution, and has several limitations (see risks).

Source: CPS 2015; MoJ internal analysis 2015.

- The key limitation of the ABC model is that it is built purely on staff time and excludes accommodation and other ancillary costs (e.g. those associated with complex cases and witness care). It also relies on several assumptions. This could mean there is a risk that costs are underestimated.

HMCTS costs (magistrates' court):

- To generate the costs by offence categories, HMCTS timings data for each offence group were applied to court costs per sitting day. Magistrates' court costs are £1,200 per sitting day in 2014/15 prices. A sitting day is assumed to be 5 hours. The HMCTS costs are based on average judicial and staff costs, HMCTS timings data from the Activity based costing (ABC) model, the Timeliness Analysis Report (TAR) data set and the costing process.

Timings data for offence categories:

- The timings data are based on the time that a legal advisor is present in court. This is used as a proxy for court time. Please note that, there may be a difference in average hearing times as there is no timing available e.g. when a District Judge (magistrates' court) sits.
- The timings data are based on the time that a legal advisor is present in court. This is used as a proxy for court time. Please note that, there may be a difference in average hearing times as there is no timing available e.g. when a DJ (MC) sits.
- Timings do not take into account associated admin time related with having a case in court. This could mean that costings are an underestimate. There is some information available on admin time, however we have excluded it for simplicity.
- The timings are collection of data from February 2009. Any difference in these timings could influence costings.
- The timings data also excludes any adjournments (although the HMCTS ABC model does include them), and is based on a case going through either one guilty plea trial (no trial) or one effective (not guilty plea) trial. However a combination of cracked, ineffective and effective trials could occur in the case route. As a result the costings could ultimately be underestimates.
- Guilty plea proportions at the Initial hearing from Q2 in 2012 are used, based on the Time Analysis Report. As these can fluctuate, any changes in these proportions could influence court calculations (effective trials take longer in court than no trials (trials where there was a guilty plea at the initial hearing)).

HMCTS average costs per sitting day:

- HMCTS court costs used may be an underestimate as they include only judicial and staff costs. Other key costs which inevitably impact on the cost of additional cases in the courts have not been considered; for example juror costs.

<p>HMCTS costs (Crown Court):</p> <ul style="list-style-type: none"> • Timings data for types of case (eg, indictable only, triable either way) were applied to Crown Court costs per sitting day. This is added to the cost of the initial hearing in the magistrates' court, as all criminal cases start in the magistrates' courts. Crown Court cost is £1,500 per sitting day in 2014/15 prices, assuming a sitting day is 4.5 hours. The HMCTS costs are based on average judicial and staff costs. 	<p>Timings data for types of cases:</p> <ul style="list-style-type: none"> • The average time figures which provide the information for the timings do not include any down time. This would lead to an underestimate in the court costing. • Timings do not take into account associated admin time related with listing a case for court hearings. This could mean that costings are an underestimate. • The data which informed the timings data excludes cases where a bench warrant was issued, no plea recorded, indictment to lie on file, found unfit to plead, and other results. • Committals for sentence exclude committals after breach, 'bring backs' and deferred sentences. <p>HMCTS average costs per sitting day:</p> <ul style="list-style-type: none"> • HMCTS court costs used may be an underestimate as they include only judicial and staff costs. Other key costs which inevitably impact on the cost of additional cases in the courts have not been considered; for example juror costs.
<p>Legal Aid Costs:</p> <p><i>Cases in the magistrates' court</i></p> <ul style="list-style-type: none"> • It is assumed for both of the new offences that the eligibility rate for legal aid in the magistrates' court is approximately 50%. • The average cost per case is £500 and assumes that there is one defendant per case. This is based on the latest available legal aid statistics (Jan-Mar 2015), and is calculated by dividing total case value by total case volume. See: https://www.gov.uk/government/statistics/legal-aid-statistics-january-to-march-2015 	<p><i>Magistrates' court</i></p> <ul style="list-style-type: none"> • Variance in the legal aid eligibility rate assumed for cases in the magistrates' courts would impact the costings. • More than one defendant prosecuted per case and therefore more solicitors and barristers per case than assumed thus understating the actual cost.
<p>Legal Aid Costs:</p> <p><i>Cases in the Crown Court</i></p> <ul style="list-style-type: none"> • It is assumed for both of the new offences that the eligibility rate for legal aid in the Crown Court is 100%. • We assume one defendant per case. One defendant instructs one solicitor who submits one bill. As such, we use the cost per solicitor bill from the 2014/15 data as a proxy for the cost per defendant. <p>Source: https://www.gov.uk/government/statistics/legal-aid-statistics-january-to-march-2015</p>	<p><i>Crown Court</i></p> <ul style="list-style-type: none"> • Assuming 100% eligibility for legal aid in the Crown Court carries several other risks. Firstly, an individual may refuse legal aid. Secondly, an individual may be required to contribute to legal aid costs. Lastly, the size of this contribution can vary. • There is more than one defendant prosecuted per case and therefore more solicitors and barristers per case than assumed thus understating the actual cost.

<p>Prison costs:</p> <p>It is assumed that an offender serves half of their given custodial sentence.</p> <ul style="list-style-type: none"> The cost per prisoner is approximately £25,300 per year. <p>Source: NOMS management accounts addendum (2013/14)⁴ and uprated to 2014/15 prices using the latest GDP deflator of 1.39% (https://www.gov.uk/government/statistics/gdp-deflators-at-market-prices-and-money-gdp-july-2015-summer-budget-2015).</p>	<ul style="list-style-type: none"> The cost of additional prison places is also dependent on the existing prison population, as if there is spare capacity in terms of prison places then the marginal cost of accommodating more offenders will be relatively low due to existing large fixed costs and low variable costs. Conversely, if the current prison population is running at or over capacity then marginal costs would be significantly higher as contingency measures will have to be found.
<p>Probation costs:</p> <p>Post-release licence costs:</p> <ul style="list-style-type: none"> It is assumed that post-release probation costs are approximately £2,700 per year in 2014/15 prices. <p>Community sentence costs:</p> <p>Costs for probation and community sentences are approximately £2,700 per year in 2014/15 prices.</p> <p>The probation costs are based on national costs for community order/ suspended sentence order, found at NOMS, Probation Trust Unit Costs, Financial Year 2012-13 and uprated in line with the GDP deflator for 2013/14 and 2014/15 (https://www.gov.uk/government/statistics/gdp-deflators-at-market-prices-and-money-gdp-july-2015-summer-budget-2015).</p> <p>Source: MoJ internal analysis, 2015.</p>	<ul style="list-style-type: none"> It is assumed that the cost of this supervision would be equivalent to the cost for post-release licence. Actual costs of post-sentence supervision may be lower. Costs reflect delivery by Probation Trusts prior to the restructuring and competition of probation services during 2014/15. The costs of post-sentence supervision will vary depending on whether offenders are managed by the NPS (National Probation Service- for high risk offenders) or the CRCs (Community Rehabilitation Companies- for lower risk offenders). There may also be costs to the NPS for production of pre-sentence reports to court and costs to prison, probation or through contracts such as Electronic Monitoring in relation to breach during the post-sentence supervision/licence period.

Section 44 of the Mental Capacity Act

44III-treatment or neglect

(1) Subsection (2) applies if a person (“D”)—

- (a) has the care of a person (“P”) who lacks, or whom D reasonably believes to lack, capacity,
- (b) is the donee of a lasting power of attorney, or an enduring power of attorney (within the meaning of Schedule 4), created by P, or
- (c) is a deputy appointed by the court for P.

(2) D is guilty of an offence if he ill-treats or wilfully neglects P.

(3) A person guilty of an offence under this section is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine or both.

⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/367551/cost-per-place-and-prisoner-2013-14-summary.pdf

Annex B: Background to the Rotherham and Oxfordshire inquiries

Independent inquiry into Child Sexual Exploitation in Rotherham⁵

Executive summary

No one knows the true scale of child sexual exploitation (CSE) in Rotherham over the years. Our conservative estimate is that approximately 1400 children were sexually exploited over the full Inquiry period, from 1997 to 2013.

In just over a third of cases, children affected by sexual exploitation were previously known to services because of child protection and neglect. It is hard to describe the appalling nature of the abuse that child victims suffered. They were raped by multiple perpetrators, trafficked to other towns and cities in the north of England, abducted, beaten, and intimidated. There were examples of children who had been doused in petrol and threatened with being set alight, threatened with guns, made to witness brutally violent rapes and threatened they would be next if they told anyone. Girls as young as 11 were raped by large numbers of male perpetrators.

This abuse is not confined to the past but continues to this day. In May 2014, the caseload of the specialist child sexual exploitation team was 51. More CSE cases were held by other children's social care teams. There were 16 looked after children who were identified by children's social care as being at serious risk of sexual exploitation or having been sexually exploited. In 2013, the Police received 157 reports concerning child sexual exploitation in the Borough.

Over the first twelve years covered by this Inquiry, the collective failures of political and officer leadership were blatant. From the beginning, there was growing evidence that child sexual exploitation was a serious problem in Rotherham. This came from those working in residential care and from youth workers who knew the young people well.

Within social care, the scale and seriousness of the problem was underplayed by senior managers. At an operational level, the Police gave no priority to CSE, regarding many child victims with contempt and failing to act on their abuse as a crime. Further stark evidence came in 2002, 2003 and 2006 with three reports known to the Police and the Council, which could not have been clearer in their description of the situation in Rotherham. The first of these reports was effectively suppressed because some senior officers disbelieved the data it contained. This had led to suggestions of cover-up. The other two reports set out the links between child sexual exploitation and drugs, guns and criminality in the Borough. These reports were ignored and no action was taken to deal with the issues that were identified in them.

In the early 2000s, a small group of professionals from key agencies met and monitored large numbers of children known to be involved in CSE or at risk but their managers gave little help or support to their efforts. Some at a senior level in the Police and children's social care continued to think the extent of the problem, as described by youth workers, was exaggerated, and seemed intent on reducing the official numbers of children categorised as CSE. At an operational level, staff appeared to be overwhelmed by the numbers involved. There were improvements in the response of management from about 2007 onwards. By 2009 the children's social care service was acutely understaffed and overstretched, struggling to cope with demand.

Seminars for elected members and senior officers in 2004-05 presented the abuse in the most explicit terms. After these events, nobody could say 'we didn't know'. In 2005, the present Council Leader chaired a group to take forward the issues, but there is no record of its meetings or conclusions, apart from one minute.

⁵ http://www.rotherham.gov.uk/info/200109/council_news/884/independent_inquiry_into_child_sexual_exploitation_in_rotherham_1997_%E2%80%93_2013

By far the majority of perpetrators were described as 'Asian' by victims, yet throughout the entire period, councillors did not engage directly with the Pakistani-heritage community to discuss how best they could jointly address the issue. Some councillors seemed to think it was a one-off problem, which they hoped would go away. Several staff described their nervousness about identifying the ethnic origins of perpetrators for fear of being thought racist; others remembered clear direction from their managers not to do so.

In December 2009, the Minister of State for Children and Families put the Council's children's safeguarding services into intervention, following an extremely critical Ofsted report. The Council was removed from intervention thirteen months later.

The Rotherham Safeguarding Children Board and its predecessor oversaw the development of good inter-agency policies and procedures applicable to CSE. The weakness in their approach was that members of the Safeguarding Board rarely checked whether these were being implemented or whether they were working. The challenge and scrutiny function of the Safeguarding Board and of the Council itself was lacking over several years at a time when it was most required.

In 2013, the Council Leader, who has held office since 2003, apologised for the quality of the Council's safeguarding services being less than it should have been before 2009. This apology should have been made years earlier, and the issue given the political leadership it needed.

There have been many improvements in the last four years by both the Council and the Police. The Police are now well resourced for CSE and well trained, though prosecutions remain low in number. There is a central team in children's social care which works jointly with the Police and deals with child sexual exploitation. This works well but the team struggles to keep pace with the demands of its workload. The Council is facing particular challenges in dealing with increased financial pressures, which inevitably impact on frontline services. The Safeguarding Board has improved its response to child sexual exploitation and holds agencies to account with better systems for file audits and performance reporting. There are still matters for children's social care to address such as good risk assessment, which is absent from too many cases, and there is not enough long-term support for the child victims.

Serious Case Review into Child Sexual Exploitation in Oxfordshire⁶

Summary of the findings

This Review is about the sexual exploitation of children in Oxfordshire, using as background the experiences of six girls who were the victims in the Operation Bullfinch trial. It is important to recognise that the time when most of the abuse took place was when there was almost no knowledge of group or gang related CSE nationally, and it is only in hindsight that the full picture is obvious. The Review concludes that many errors were made, and identifies what lay behind the errors.

Lack of understanding led to insufficient inquiry. That the girls had lost the ability to consent or make their own decisions due to grooming was not realised, and instead they were seen as very difficult girls making bad choices. This, and that most of their families were seen as also having many problems, deflected attention from who was drawing them away from their homes - their own or in Care. The language used by professionals was one which saw the girls as the source not the victims of their extreme behaviour, and they received much less sympathy as a result. They were often in Care for their own protection, and frequent episodes of going missing were again put in the context of them being extremely difficult children.

⁶ <http://www.oscb.org.uk/wp-content/uploads/SCR-into-CSE-in-Oxfordshire-FINAL-FOR-WEBSITE.pdf>

The law around consent was not properly understood, and the Review finds confusion related to a national culture where children are sexualised at an ever younger age and deemed able to consent to, say, contraception long before they are able legally to have sex. A professional tolerance to knowing young teenagers were having sex with adults seems to have developed.

The victims almost never cooperated with investigations (again caused by the grooming) and there was a sense that nothing could be done as evidence was therefore weak. The need for disruption, covert surveillance and comprehensive intelligence gathering, despite no formal evidence from victims, was not understood. In fact, there was limited understanding of guidance related to the exploitation of children, although this has been seen nationwide. The lack of cooperation, and attitudes of the victims, sometimes led to crimes against them not being recorded as such.

Regardless of levels of technical knowledge about CSE, there was a lack of curiosity across agencies about the visible suffering of the children and the information that did emerge from girls, parents, or carers, or some very worried staff. Also, a failure to recognise that the very extreme circumstances around the victims were so bad as to need referral upwards to board/governing body level, and a strategic response. Instead, the cases were seen more in isolation, with the focus mainly on protecting and containing the girls rather than tackling the perpetrators. There was no evidence that the ethnic origin of the perpetrators played a part in the delayed identification of the group CSE. The Review shows that from 2005-10 there was sufficient known about the girls, drugs, prostitution and association with adult men to have generated a more rigorous and strategic response, but this did not happen – and mostly the information did not reach strategic levels.

In part, the findings above are not new, or unique to Oxfordshire. Much research had shown that few areas were prepared for this type of abuse. However, there were reasons why in Oxfordshire the group abuse was not recognised earlier, when there were opportunities to do so. The predecessor body to the Oxfordshire Safeguarding Children Board (OSCB), and OSCB in its early years, did not show sufficient grip or curiosity when some early signs were presented, and the topic drifted off the agenda. Children's Social Care (CSC) was at the time of much of the abuse rated as only adequate by Ofsted, and an external review showed the OSCB needed to improve. Social worker numbers were at one point amongst the lowest in the country (leading to high caseloads), and supervision of staff was not strong. Child protection processes were not always robust. Crucially, insufficient value was placed on escalating extreme cases for top consideration, and this must reflect the then management culture. The Police, then, had limited processes in place that pulled together force-wide patterns. The important role of the City District Council in terms of local knowledge and regulation was not understood.

There are indications that top-level commitment from agencies to the OSCB and its predecessor was variable, and the Board members did not create a Board which rigorously followed things through. Crucial national guidance on 2009 CSE was overlooked, and there was no strategic overview.

As a result, the discovery of what later emerged in the Bullfinch inquiry and trial was led not by leaders and strategic bodies but by more junior staff working nearer the coalface. A drugs worker for the City Council, a social worker, and a detective inspector, on their own initiative, and in the absence of any strategic work, each led a number of meetings which were unknown to the OSCB or top managers. Their efforts eventually culminated in a shared recognition that there was group-related exploitation of multiple girls. Action from this point became coordinated and successful.

Since this turning point in early 2011, Oxfordshire has responded comprehensively to the challenge, is rated as 'good', and is held as an exemplar of how CSE should be tackled. There is no denial of either the errors or the scale of abuse, and top-level apologies have been made to the victims and their families. The Review identifies around 60 learning points that will help agencies understand why and what needs to happen to be sure CSE continues to be tackled well.