
HCPC response to the government consultation on ‘Reporting and acting on child abuse and neglect’

1. Introduction

- 1.1 The Health and Care Professions Council (HCPC) welcomes the opportunity to respond to this consultation on ‘Reporting and acting on child abuse and neglect’.
- 1.2 We are a statutory UK-wide regulator of 16 health, social work, and psychological professions. We maintain a register of professionals; set standards for entry to the register; approve education and training programmes for registration; and deal with concerns where a professional may not be fit to practise. Our main role is to protect the health and wellbeing of those who use or need to use the services of our registrants.
- 1.3 Because of our role in regulating individual professionals, we have responded only in respect of how the proposed mandatory reporting duty and duty to act would apply to individuals, rather than to organisations.

2. Our standards

- 2.1 We set standards of conduct, performance and ethics¹ which all professionals registered with us must adhere to. These set out our expectations of their behaviour, including how they communicate and interact with service users and their ethical decision making. The standards of conduct, performance and ethics oblige include requirements about reporting and taking action if a professional has concerns about the safety and well-being of children.
- 2.2 Specifically the standards state:
 - 7.1 You must report any concerns about the safety or well-being of service users promptly and appropriately.
 - 7.2 You must support and encourage others to report concerns and not prevent anyone from raising concerns.
 - 7.3 You must take appropriate action if you have concerns about the safety or well-being of children or vulnerable adults.
 - 7.4 You must make sure that the safety and well-being of service users always comes before any professional or other loyalties.’

¹ <http://www.hcpc-uk.org/aboutregistration/standards/standardsofconductperformanceandethics/>

3. Our comments

- 3.1 We support in principle the introduction of a mandatory reporting duty or duty to take appropriate action which applies to health and care professionals; however further clarification is needed on some aspects. We have provided more detailed comments below.

Supporting professionals

- 3.2 We are supportive of any measures which will help to reduce the incidence of child abuse and neglect and increase the ability of local authority social services to become aware and take action to protect children where abuse and neglect has occurred.
- 3.3 Additionally, we recognise that it can be challenging in some circumstances for professionals to raise concerns, for example where the culture of the workplace discourages it, or where there is fear of reprisal for 'whistleblowing'. We believe that creating a mandatory duty to report child abuse and neglect in legislation could have the effect of supporting practitioners in their professional responsibility to raise concerns about the health or wellbeing of their service users.

Scope of the duty

- 3.4 Whilst we agree in principle with the introduction of a mandatory reporting duty or duty to act, the definition and scope of these duties needs to be carefully considered.
- 3.5 For example, clarification is needed on whether the duty would apply only in the course of an individual's professional practice, i.e. where they come into contact with a child or family in a professional, rather than personal, capacity. Would a professional be held accountable and sanctioned under the legislation for witnessing what might be an abusive act against a child who is not known to them (e.g. in the street) and not reporting this to the local authority or taking further action? We would suggest that would be an unfair expectation in some circumstances.
- 3.6 Additionally, with regard to the proposed duty to act, we would welcome further clarification on what would be deemed 'appropriate action' beyond reporting. This would clearly depend on the professional's role and nature of their relationship with the child. In the context of HCPC-registered professions, expecting a physiotherapist who has provided limited treatment to a child to take the same actions as a social worker who has a longstanding relationship with the child would not seem proportionate.

Existing regulatory processes

- 3.7 As set out in our governing legislation (the Health and Social Work Professions Order 2001), the HCPC operates a process for investigating and taking action where a concern has been raised that a registered professional has not met our

standards for safe and effective practice. This is known as the 'fitness to practise' process. Anyone, including other professionals and members of the public, can raise a concern with us. In serious cases we can take action, including stopping a professional from practising where it is necessary to protect the public.

- 3.8 There are numerous examples in the past where we have applied sanctions against professionals for failing to take appropriate action to protect a child or vulnerable adult, or for failing to act in their best interest.
- 3.9 However, these processes are focused on cases where the individual's fitness to practise is found to be currently impaired; that is, where their actions or omissions indicate that they are not currently able to practise safely and effectively. Failure to report a concern might indicate misconduct on the part of a professional but would not necessarily result in a sanction if their fitness to practise was not deemed to be currently impaired. For instance, there may have been extenuating circumstances, or it may have been a one-time omission where the professional has shown insight and is very unlikely to make the same mistake again.

Sanctions

- 3.10 The consultation's supporting annexes refer to regulatory sanctions applied by professional regulators like the HCPC as 'disciplinary' in nature. This is not the case. Professional regulators apply sanctions only for the purposes of public protection, where a professional's fitness to practise is deemed to be impaired. If the intention of the proposal is that professionals who fail to report child abuse and neglect should be subject to a disciplinary or punitive sanction, then the use of professional regulatory processes is not likely to be appropriate.
- 3.11 However, we would also urge caution regarding the introduction of criminal sanctions, particularly for a failure to report. As noted above, many health and care professionals work in extremely challenging and overburdened environments, and we know that mistakes do happen. We do not think it would be appropriate in all situations to criminalise professionals for a one-off failing. Our fitness to practise processes already would enable us to take action against a professional who has continuously, recklessly or dishonestly failed to report child abuse and neglect or to take appropriate action.