

*It is a long-standing government policy to give priority to child abuse cases where you are the parent or the carer of a child witness you can expect...  
In particular, child witness cases are given the highest priority.*

**NSPCC**

NI Policy and Research Unit

# An examination of local, national and international arrangements for the mandatory reporting of child abuse: the implications for Northern Ireland

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# Executive summary

## Introduction

The concept of mandatory reporting originated in the USA, and refers to legislation that specifies who is required by law to report suspected cases of child abuse and neglect. In England, Scotland and Wales there is no formal requirement in law to report child protection concerns to the statutory authorities. However, in Northern Ireland, Section 5(1) of the Criminal Law Act (1967) provides for a criminal offence of failing to disclose an arrestable offence to the police, which, de facto, includes most offences against children.

Whilst the mandatory reporting debate is less active in other UK jurisdictions, recent developments in the Republic of Ireland (RoI), together with the existence of the Criminal Law Act (1967) provisions, make this a more salient issue in Northern Ireland. This report is intended to increase our understanding of the impact of mandatory reporting through reviewing the international evidence and experiences of mandated reporting legislation. As part of this, consideration is also given to whether or not mandatory reporting legislation better protects children and young people from abuse. It includes an overview of international reporting systems, an analysis of the evidence relating to the impact of mandatory reporting laws, and an exploration of the factors that are associated with reporting behaviours and attitudes. It also briefly describes the reporting systems currently in operation within the UK and examines the Northern Ireland reporting system in relation to the findings from the international evidence.

## Method

The search strategy for this research review involved a range of searches of research/academic databases using the terms “mandatory reporting” and “child abuse”. Due to time and resource constraints articles published before 1995 were excluded from the review. The abstracts for the 1995–2005 articles retrieved in the initial search were reviewed simultaneously by two researchers to ascertain relevancy to the subject. At this stage a further 10 articles were excluded on the basis that the primary focus of the paper was not child abuse (eg, mandatory reporting and domestic violence or elder abuse). As well as articles identified in the academic databases, a search was also conducted using the Google search engine. Additional articles were identified throughout the course of the review from papers and recommendations from other researchers. In total 53 articles were considered relevant to the review and of these, it was possible to retrieve three quarters for inclusion. Key articles that presented empirical evidence, or provided useful synopses of the mandatory reporting debate, have been cited in the report.

It should be noted that the report, whilst providing a valuable overview of mandatory reporting, is limited by its focus on published English language articles. Equally, the complexity of the subject matter and the limited nature of the available research mean that data making a direct link between mandatory reporting and the increased protection of children is scarce. To address this, to some extent, the paper draws on international comparisons of abuse related child deaths. However, it should be recognised that this is a crude measure. Mandatory reporting legislation itself varies widely between countries and will be but one of the many factors that influence child deaths. As such interpretations and conclusions drawn from this should be treated with caution.

## Section 1. The international context

Internationally, few countries appear to have mandatory reporting laws covering child abuse. The USA, Australia and Canada are the main countries that pursue this as an approach, although a range of other countries including Argentina, Sweden, Denmark, Finland, Israel, Kyrgyzstan, the Republic of Korea, Rwanda, Spain and Sri Lanka have been identified as adopting some form of mandatory reporting legislation. Nonetheless, voluntary reporting systems are considered to be much more common.

America, in particular, has a strong and well-established culture of mandated reporting with the first laws drafted in 1963. Since then mandatory reporting has become an important feature in the child abuse laws of all 50 states, as well as the District of Columbia, and is considered to be a crucial element in the child protection system (CPS). In Australia mandatory reporting now exists in all the states and territories, with Western Australia being the only jurisdiction without mandatory reporting requirements. Similarly, all Canadian jurisdictions with the exception of the Yukon Territory, have mandatory reporting clauses in their protection legislation.

However, even within a strong and well-established culture of mandated reporting, the specifics of legislative arrangements can vary considerably. Common legislative differences relate to the scope of mandatory reporting, which can range from full coverage requiring all citizens to report child abuse, to selective mandatory reporting which focuses on specific professional groups or “mandated reporters”. Variation is also apparent in relation to the limits of professional confidentiality, definitions of child abuse and maltreatment, and timeframes for reporting. As such, it is evident that a range of reporting systems and approaches exist: from the Yukon Territory in Canada, with its minimal professional coverage, to the state of New Jersey, in the USA, where all persons are mandated to report. Some countries and regions, such as Western Australia, utilise voluntary reporting systems but employ inter-agency protocols that are almost equivalent to mandatory reporting.

## **Section 2. The impact of mandatory reporting laws**

Given the various reporting models currently in existence, there are inherent difficulties in comparing mandatory reporting laws. Many of the arguments “for” or “against” mandatory reporting are polemic in nature and much of the “evidence” is inferential and presumptive. That said, some broad trends are apparent and the introduction of mandatory reporting is often associated with an increase in the reporting of cases where suspicions of child maltreatment have been raised. However, questions have been raised over the quality of reporting and increased rates of unsubstantiated cases, as well as the ability of systems to deal with these increases appropriately. This is further complicated by the difficulty in attributing increases in reporting, varying rates of substantiation, or rates of under-reporting to mandatory reporting laws alone, since the context in which they exist is widely considered to influence their outcomes. Moreover, the international evidence indicates that, despite legal requirements to do so, there will always remain a group of mandated reporters who fail to report child protection concerns.

Overall, there is a lack of empirical data on how mandatory reporting better protects children and young people. International data on child abuse related deaths enables some exploration, although it is difficult to draw any firm conclusions. Nonetheless, international comparisons suggest that, in America at least, which has the longest established mandatory reporting laws, increases in reporting have not been reflected in a reduction in child deaths. The data also lends some support to the view that the ethos of the child protection system (CPS) is a factor in determining outcomes for children, with those countries classified as having a stronger family services orientation tending to have lower rates of abuse related child deaths compared with countries considered to have a more legally focused, investigation based system.

## **Section 3. Factors influencing the decision to report**

Given that under-reporting remains a significant concern despite the existence of mandatory reporting legislation, a number of studies investigated the factors that influence decisions to report. These covered a range of professional groups as well as a variety of jurisdictions. Hypothetical vignettes were commonly used as a predictor of reporting behaviour, an approach that is often limited in its ability to capture the real life dynamics of decision making processes. Nevertheless, these studies offer a valuable insight into the factors that are likely to influence reporting decisions, particularly where they have been supported by data on actual reporting rates. A perceived lack of evidence, the type of the abuse suspected, length of time in practice, a lack of skills, fear of negative consequences and professional concerns about confidentiality were all found to be linked with under-reporting of suspected child abuse. Training emerged as central to the successful introduction of mandatory reporting laws and was linked with increased reporting rates as well as increased quality of reporting.

## **Section 4. The UK and Northern Ireland policy context**

Whilst some variations are evident within the UK, England, Scotland and Wales share a propensity towards a similar system of voluntary reporting in which professional reporting obligations are emphasised through national and local guidance. More recently, England, Scotland and Wales have witnessed the development of inter-agency protocols that emphasise information sharing and structured inter-agency co-operation. It could be argued that these developments are a version of selected professional mandatory reporting, which differ from mandatory reporting only in that they confer a professional obligation rather than a legal requirement. This increased emphasis on information sharing has also raised questions about confidentiality and research suggests that this has implications for how children disclose abuse and access professional help.

Whilst Northern Ireland is different in that it is the only UK jurisdiction to have a form of mandatory reporting legislation, this exists largely as a technicality and, as in the rest of the UK, the actual practice of reporting relies on a voluntary system strengthened by information sharing policies and protocols.

Nonetheless, under-reporting remains a significant issue in Northern Ireland, whilst recent policy developments have raised concerns about information sharing and confidentiality, particularly in relation to sexual health services.

Based on the international experience, potential mechanisms for addressing under-reporting in Northern Ireland could include raising awareness of the existing legislation, or introducing full mandatory reporting legislation requiring all Northern Ireland citizens to report suspected child abuse. Other approaches could focus on introducing selected mandatory reporting to cover designated professional groups or to follow the Western Australian model by maintaining a system of voluntary reporting strengthened by inter-agency protocols.

Full mandatory reporting may result in an increase in reporting rates but the international experience highlights the potential for overburdening already stretched child protection services and raises questions as to the quality of increased reports, many of which have been found to be unsubstantiated. This option would also have major implications for the development of confidential services and spaces for children and young people. Whilst selected mandatory reporting covering designated professional groups would offer a more flexible approach many of the same caveats apply and, this too, would have implications for the development of confidential spaces. A voluntary reporting system strengthened by interagency protocols emphasising the duty of care professionals have in relation to children can provide a similar but more flexible framework for reporting child abuse concerns. This would not only be in keeping with recent NI and UK developments but would also enable a more open debate around confidentiality and the development of confidential spaces for children and young people who wish to access support.

## **Section 5. Conclusion**

In considering the diversity of mandatory reporting systems, this report has highlighted a range of international reporting models that might be adapted for use within Northern Ireland. Although the evidence base is limited and it is extremely difficult to isolate the direct impact mandatory reporting legislation has, the available information suggests that mandatory reporting is unlikely lead to improvements in the protection of children and young people. Based on the available evidence, it would seem that a voluntary system of reporting strengthened by interagency protocols and guidance and accompanied by professional training and awareness raising would be the preferred option in Northern Ireland. This would not only be in keeping with recent Northern Ireland and UK developments but would provide a more flexible environment in which to explore the balance between protection and confidentiality.

To this end the NSPCC recommends:

1. Repealing Section 5(1) of the Criminal Law (Northern Ireland) Act (1967) as it relates to child protection interfaces.
2. Strengthening information sharing protocols and clarifying reporting processes for different professional groups. This should involve having an open debate about how best to balance confidentiality and protection to more effectively meet the needs of children and young people.
3. Continued education and training in order tackle non-reporting amongst professionals coupled with increased public awareness raising, regardless of the reporting system in operation.

# Introduction

**Mandatory reporting:** legislation that specifies who is required by law to report suspected cases of child abuse and neglect.

Mandatory reporting of child abuse and neglect has its origins in the USA, where model statutes for laws designed to introduce this process were first drafted in the early 1960s. Today, the USA, Canada and Australia are the three main countries that pursue mandatory reporting as an approach to the prevention and reduction of child abuse and neglect. Such legislation is widely considered to be a means of acknowledging the seriousness of child abuse and affording increased protection for children and young people through reinforcing the moral responsibility community members have to report suspected cases of maltreatment.

Within the UK there is no formal requirement in law to report child protection concerns to the statutory authorities, although in England and Wales the Criminal Law Act 1967 makes it an offence for an individual to conceal, for reward, information about an arrestable offence. In Northern Ireland this is taken further and Section 5(1) of the Criminal Law (Northern Ireland) Act (1967) provides for a criminal offence of failing to disclose an arrestable offence to the police, which, de facto, would include most offences against children.

In the Republic of Ireland (RoI) recent developments have raised the profile of mandatory reporting, with the Ferns Report into Clerical Sex Abuse published in October 2005 recommending that the Irish government adopt the reckless endangerment laws currently in place in the state of Massachusetts. This would create a new criminal offence applying to situations where any person *“wantonly or recklessly engages in conduct that creates a substantial risk of bodily injury or sexual abuse to a child or wantonly or recklessly fails to take reasonable steps to alleviate such risk where there is a duty to act”* (General Laws of Massachusetts Part IV Title 1 Chapter 265).

In light of this development, and given the existence of Section 5 in Northern Ireland, the NSPCC is seeking to increase its understanding of the impact of mandatory reporting legislation through reviewing the international evidence. As part of this, consideration is given to examining whether or not mandatory reporting legislation better protects children and young people from abuse. The details of the documents covered in this review and the way in which they were accessed are outlined in the methodology section. The findings from the review are presented in three sections, with the first providing a broad overview of the range of different international reporting systems. Section 2 focuses on the evidence relating to the impact of mandatory reporting laws, drawing on the available research evidence as well as international comparisons of abuse related child deaths. The third section explores the factors that are associated with professional reporting behaviours and attitudes.

Although policy developments in RoI mean that the mandatory reporting debate currently is more relevant in Northern Ireland than other jurisdictions, it is useful to set this issue within its wider UK context. To this end, section four briefly describes the reporting systems in operation within the UK and the current policy developments and debates. It also examines the Northern Ireland reporting system in relation to the findings from the international evidence.

# Methodology

The search strategy for the research review involved a range of searches of research/academic databases using the terms “mandatory reporting” and “child abuse” and was carried out in November 2005. The results from the four databases covered are listed in the table below, along with the results from each search (See Table 1).

Due to time and resource constraints articles published before 1995 were excluded from the review, as were non-English language publications. The abstracts for the 1995–2005 articles retrieved in the initial search were reviewed simultaneously by two researchers to ascertain relevancy to the subject. At this stage a further 10 articles were excluded on the basis that the primary focus of the paper was not child abuse (eg, mandatory reporting and domestic violence or elder abuse). As well as articles identified in the academic databases, a search was also conducted using the internet search engine Google (see Table 1). Additional articles were identified throughout the course of the review from papers and recommendations from other researchers (see Table 1). In all, the total number of articles retrieved for review was 40.

The retrieved articles comprised a mixture of primary research articles and discussion papers. No meta-analysis or systematic research synthesis relating to this topic were identified through the search. All studies presenting primary research data are cited in this review, together with a number of key discussion articles that encapsulate the range of arguments both for and against mandatory reporting.

## Limitations

It should be noted that as the report focused on published material only, primarily that which investigated the impact of mandatory reporting, the description of different international reporting systems is dependant on the information available. Equally, as the review focused on English language publications, information pertaining to mandatory reporting legislation outside of Western/European countries may not necessarily have been identified in the search strategy. As such, the information contained with this report should not be taken as an exhaustive account of every mandatory reporting system currently in operation. Rather it is a broad overview of the variety and scope of different mandatory reporting laws.

The central issue examined in the paper is the impact and effectiveness of mandatory reporting laws. To this end the review provides a valuable overview of the research in this area. Nevertheless, the complexity of the subject matter and the limited nature of the available research mean that data making a direct link between mandatory reporting and the increased protection of children is scarce. To address this to some extent the paper draws on international comparisons of abuse related child deaths. However, it should be recognised from the outset that this is a crude measure. Mandatory reporting legislation itself varies widely between countries and will be but one of the many factors that influence child deaths. Interpretations and conclusions drawn from this should be treated with caution.

**Table 1.** Results from Database Searches

Database	Search Terms	Initial No. of Hits	Duplicates	No. Articles excluded	Total Identified as Relevant for Review	Total Retrieved
Web of Science	“Mandatory Reporting” and “Child Abuse”. Topic Search: Title and Abstract.	32	–	12 (by date – prior to 1995) 4 (not relevant to research)	16	10
PubMed	Mandatory Reporting and Child Abuse. Title/Abstract. Limits: Humans	38	10	22 (by date – prior to 1995)	6	2
Child Data	Mandatory Reporting	18	3	None	15	13
Social Care Online	Intermediate Search: Mandatory (Free text) AND Reporting (Free Text)	18	7	2 (by date – prior to 1995) 6 (not relevant to research)	3	2
Internet	Mandatory Reporting and child abuse	–	–	–	6	6
Other	–	–	–	–	7	7
<b>Total</b>	N/A	106	20	46	53	40



# 1 The international context

A recent worldwide report on violence and health published by the Worldwide Health Organisation (WHO, 2002) and a comprehensive review of mandatory reporting carried out by the University of Western Australia (Harries *et al*, 2002) both identify a range of countries in which certain groups are mandated by law to report suspicions of child abuse and neglect. Among them are the USA, Australia and Canada, Argentina, Sweden, Denmark, Finland, Israel, Kyrgyzstan, the Republic of Korea, Rwanda, Spain and Sri Lanka. Even so, both reports acknowledge that relatively few countries have mandatory reporting laws for child abuse and neglect, with voluntary reporting systems tending to be more common. The review also notes that mandatory reporting tends to be a largely Anglo-European-American phenomenon and, as such, much of the available evidence relates to these jurisdictions. This section highlights the range of mandatory legislation available through focusing specifically on arrangements in those countries for which the main body of literature exists: the USA, Australia and Canada.

## USA

The first US laws relating to mandatory reporting were drafted in 1963. Since then mandatory reporting has become an important feature in the child abuse laws of all 50 states as well as the District of Columbia, and is considered to be a crucial element in the child protection system (CPS). Although the specific language of these laws varies between states, it is possible to identify a number of key features that are common to all. The following basic issues are addressed in all mandatory reporting laws in the USA:

- definition of reportable conditions
- persons required to report
- degree of certainty reporters must reach
- sanctions for failure to report
- immunity for good faith reports
- abrogation of certain communication privileges
- delineation of reporting procedures.

(Foreman and Bernet, 2000)

Within these basic components however, differences do exist amongst states. For instance, approximately<sup>1</sup> 18 states require *all* citizens to report suspected abuse or neglect (NAIC, 2003), whilst the remaining states restrict the obligation to report to a range of designated professional groups. Legislation that identifies specific professional groups as mandated reporters reflects a belief that these professionals have a role to play in the reporting process over and above that of the ordinary citizen. Teachers, for instance, are widely considered a key professional group – in fact, all 51 US jurisdictions mandate the reporting of child abuse and neglect by school teachers and administrators to CPS. Others typically covered tend to have frequent contact with children in other contexts, for instance health care workers, social workers and mental health professionals (NAIC, 2003). There is great diversity between states in terms of the detail given about those mandated to report, as illustrated in Figure 1, which provides a comparison of the state laws in New Jersey with those in South Carolina.

Figure 1 also illustrates that as well as differences in the coverage of mandatory reporting laws across states in the USA, there are other differences relating to how privileged communications are dealt with. For instance, attorney–client privilege is widely recognised by most states, but not all. The privilege pertaining to clergy–penitent communication is also frequently recognised, although this is not always absolute. Approximately 21 states currently include this group among those professionals specifically mandated to report (NAIC, 2005), although the clergy–penitent privilege is typically limited to situations in which a clergy person becomes aware of child abuse through confessions or in the capacity of spiritual adviser. In five states however, the clergy–penitent privilege is denied altogether (NAIC, 2003). Furthermore, very few states recognise the physician–patient or the mental health professional–patient privilege as exempt from mandatory reporting laws (*ibid*).

<sup>1</sup> The word approximately is used to stress the fact that statutes are constantly being revised and updated.

Additional differences emerge when considering the issue of unborn fetuses, with approximately 12 states having specific reporting procedures for infants who show evidence at birth of having been exposed to drugs, alcohol or other controlled substances. Twelve states as well as the District of Columbia include this type of exposure in their definitions of child abuse and neglect (NAIC, 2004).

**Figure 1. Statutes at a Glance**

<b>1) New Jersey</b>
<p><b>Professions that must report:</b> All persons  <b>Others:</b> Not addressed in statutes reviewed  <b>Standard:</b> Have reason to believe  <b>Privileged communications:</b> Not addressed in the statutes reviewed</p>
<b>2) South Carolina</b>
<p><b>Professions that must report:</b></p> <ul style="list-style-type: none"> <li>● Health care professionals</li> <li>● Mental health professionals</li> <li>● Social work professionals</li> <li>● Education/child care professionals</li> <li>● Law enforcement professionals</li> </ul> <p><b>Others:</b></p> <ul style="list-style-type: none"> <li>● Judges</li> <li>● Funeral home directors and employees</li> <li>● Christian Science practitioners</li> <li>● Film processors</li> <li>● Religious healers</li> <li>● Substance abuse treatment staff</li> <li>● Computer technicians</li> </ul> <p><b>Standard:</b> Have reason to believe  <b>Privileged communications:</b></p> <ul style="list-style-type: none"> <li>● Attorney-client</li> <li>● Clergy-penitent</li> </ul>

(Source: National Clearinghouse on Child Abuse and Neglect Information, 2003)

**Australia**

Australia also has a lengthy history of mandatory reporting, with the first laws introduced in New South Wales in 1977 (Sinclair, 2004). Mandatory reporting now exists in all the states and territories, although many commentators single out Western Australia as the only Australian jurisdiction without mandatory reporting requirements<sup>2</sup>. In fact, even within Western Australia there are targeted legislative requirements for the reporting of child abuse. These require court personnel, counsellors and mediators to report allegations or suspicions of child abuse in family court cases, and licensed providers of child care or outside school hours care services to report abuse in a child care service (Higgins *et al*, 2005). There are also a series of reciprocal protocols between government departments and non-government agencies, which emphasise that professionals in the areas of health, welfare and police have a duty of care to report any concerns (Harries *et al*, 2002).

This approach contrasts with legislative arrangements in the Northern Territory, which mandate that *any* person who believes a child is being or has been maltreated is required to notify the authorities. The other states sit between these two extremes: for example Victoria has a limited number of listed occupations that include police, doctors, nurses and teachers. The inclusion of these specific professional groups is again based on the understanding that each has a key role to play in recognising and reporting cases of suspected child maltreatment to the authorities. For instance, teachers are included because of their long-term and on-going

<sup>2</sup> For examples, see Sinclair, 2004 and Ainsworth, 2002

contact with children and cognisance of typical child behaviour. There also appears to be general agreement that school counsellors serve a vital role in the school (Kenny, 2002), acting as child advocates who should be able to detect signs of abuse and make reports on behalf of children.

Van Haeringen (1998) points out the role that medical practitioners can play, given that they have been at the forefront of the development of services for children who are victims of abuse or neglect since the “rediscovery” of child abuse in the 1960s. Presentation of an injured child to a medical practitioner offers an opportunity for intervention that may prevent subsequent mortality and morbidity. Other states have more extensive lists of mandated professionals (eg, Australian Capital Territory and South Australia) or use generic descriptions of “professionals working with children” (Higgins *et al*, 2005).

In line with trends in the USA for increasing the scope of mandatory reporting laws, recent legislative changes in New South Wales (NSW Police Service, 1997) have broadened the range of people mandated to report children at risk. New child protection categories have also been introduced, including, amongst others, children at risk of domestic violence. Mandated reporters are now required to report “*if the child or young person is living in a household where there have been incidents of domestic violence, and, as a consequence, the child or young person is at risk of serious physical or psychological harm*” (NSW Children and Young Persons (Care and Protection) Act 1888).

## Canada

As in both the USA and Australia, the politics of mandatory reporting have been settled in Canada for some time, and all Canadian jurisdictions except one include mandatory reporting clauses in their protection legislation (Swift, 1997). The exception is the Yukon Territory where only teachers and day care workers are required to report under the legislation governing their respective professions. Elsewhere, most legislation governing mandatory reporting stipulates that reports are to be made by anyone aware of a child in need of protection. In addition, professionals who work with children are specifically mentioned in most legislation as those required to report, even if the information they report is otherwise considered confidential. Lawyers are generally exempt from reporting, although not in Prince Edward Island (Swift, 1997).

Again, on closer examination of the legislative provisions in each province and territory, it becomes clear that there are subtle differences in definitions of child abuse, and the scope of laws. For example, the British Columbia Child and Family Service Act (1980) cites only a brief definition of a child “*in need of protection*”, which includes a child who is “*abused or neglected so that his safety or well being is endangered*” (s.1, pp. 81). This is in contrast to the explicit operational definitions of what constitutes emotional and physical injuries and sexual abuse offered by the Alberta Child Welfare Act (1984) (s. 3, pp. 73-74).

Further variation between jurisdictions can be found in relation to the time frames associated with the duty to report. In British Columbia and Saskatchewan the duty to report seems to be specifically related to children currently in need of protection. This requirement is extended to include reports for both past and potential situations of child maltreatment in Alberta, Newfoundland, the Northwest Territories, Nova Scotia, Prince Edward Island, New Brunswick, and Ontario (Walters, 1995).

Despite these differences, there are also a number of similarities. For instance immunity from criminal and civil liability is granted in all jurisdictions to any person giving information about a child in need of protection, provided the report is made in good faith. Furthermore, reports in all jurisdictions are to be made to mandated child protection authorities even if the information has been given to others, for instance, to health or educational personnel (Swift, 1997).

### Key points

- Both voluntary and mandatory approaches to the reporting of child abuse and neglect exist.
- The introduction of mandatory reporting can take many forms, with variations in:
  - **Scope of reporting laws** – from all citizens to designated professional groups
  - **Thresholds for reporting**, covering definitions of child maltreatment and timelines for reporting
  - Issues of **professional confidentiality** and how this can co-exist with a legal obligation to report concerns

## 2 The impact of mandatory reporting laws

As Section 1 has highlighted, mandatory reporting legislation appears relatively adaptable and can be tailored to fit specific child protection systems and contexts. This section examines the impact of these laws as evidenced in the literature. It also draws on international data on abuse related deaths to explore the potential impact of mandatory reporting on protecting children and young people from harm. However, it should be noted that many factors outside of mandatory reporting are likely to influence child deaths and that interpretation of this data should be treated with caution.

### Ethos of the child protection system

When considering the impact of mandatory reporting laws it is important not just to focus on the nature of the legislation enacted, but also to take account of the broader child protection systems in which such legislation operates. In a nine-country comparative analysis of child abuse reporting laws, Gilbert (1997) presents two models through which states frame the problem of child abuse. In the Child Protection Model the act of abuse is perceived foremost as a problem that demands the protection of children from harm by degenerate relatives; in the Family Services Model it is seen as a problem of family conflict or dysfunction stemming from social and psychological difficulties that are responsive to services and public aid. Depending on the model in use, reporting systems tend to operate primarily as a response to family need, or as a mechanism for deviance control. Thus preliminary intervention under a child protection model is more of an investigatory process backed by the legal powers of the state, which stand ever ready to be invoked, in contrast to the therapeutic family needs assessment of the service-oriented models.

**Table 2.** Mandatory Versus Non-Mandatory Reporting by Service Orientation

Service Orientation	Mandatory Laws	Non-mandatory Laws
Child Protection	Canada United States	England
Family Service	Denmark Finland Sweden	Belgium Germany The Netherlands

Source: Stewart (2004)

Not all countries fit neatly into these two models, but rather exist along a continuum between the two. Nevertheless, they provide a useful framework in which to consider the impact of mandatory reporting. Whilst international comparison (see Table 2) does not appear to show a link between either model and the presence of mandatory reporting laws, comparison of reporting rates between countries does suggest that Anglo-American countries with reporting systems oriented towards child protection have much higher rates of reporting than the family service oriented systems (see Table 3). However, given the difficulties inherent in comparing reporting rates across countries, these figures allow for only a very rough comparison, which, at best, provides a general sense of magnitude.

**Table 3. Child Abuse Reporting Rates 1993**

Child-based reports per 1,000 children	
Netherlands <sup>3</sup> (to age 17)	4.9
United States	43
California <sup>4</sup> (to age 18)	70
England <sup>5</sup> (to age 16)	13.6
Belgium <sup>6</sup> (to age 17)	2.91
Ontario, Canada (to age 15)	21
Germany	15

Source: adapted from Gilbert (1997)

Gilbert (1997) argues that these differences in reporting rates are largely determined by the social policy context in which the reporting system is located. Thus, the number of reports made under mandatory reporting laws within the family service model may be lower because reporting is viewed as a “last resort”, only to be utilised after interventions based on partnership between parents and state authorities have been exhausted. This can be attributed to the differentiation between therapeutic intervention and judicial intervention. Whilst the former is viewed as encouraging families to access non-coercive state intervention, reporting in systems with a child protection orientation is more likely to prompt investigations that are more legalistic, vested with the coercive powers of the state and aimed at deviance control.

This viewpoint is further supported by Melton (2005) who is highly critical of the American policy of mandatory reporting, which is framed by a child protection orientation. The author comments that the US child protection system is increasingly ill-matched to the needs of the children and families who enter it. Melton (2005) goes on to argue that there is no logical relation between the problems presented and the response undertaken, and that after decades of injunctions to report cases of suspected child maltreatment to the CPS, both the general public and the relevant professionals equate child protection with reporting and investigation. The result is that child protection services, being largely engaged as a matter of legal obligation in evidence gathering and preparation of actual or potential court cases, are diverted from the task of increasing the safety of children. To this end vast human and fiscal resources, which could be spent in prevention or treatment, are instead expended in investigations that usually result in significant disruption of family life but are of little, if any, benefit.

### Increased reporting rates

Whilst much of the evidence on the impact of mandatory reporting tends to be conflicting, there is a general consensus that in the USA, Australia and Canada the introduction of mandatory reporting legislation has been accompanied by significant increases in the number of reports of suspected child abuse and neglect made to the authorities (Harries *et al*, 2002).

Since the term “battered child syndrome” was first coined in the USA back in 1962 (Trocmé *et al* 2003), professional and public awareness of the plight of maltreated children has expanded to include child sexual abuse, child neglect, and more recently, emotional maltreatment. This greater recognition and awareness of child abuse has been accompanied by a broadening of the scope of mandatory reporting laws across the USA, and many commentators draw attention to the exponential rise in the number of reports of child abuse that has accompanied these changes. For example, Rodriguez (2002) reports that in 1962 there were about 10,000 reports of child abuse in the USA, compared to nearly 3 million reports in 1999. Giovannoni (1995) also identifies an accelerated increase in reports received by CPS during the 1980s, when the number of reports was 14 times that of the early 1960s, when state reporting laws were first passed.

A similar pattern emerges in Australia where mandatory reporting laws have also been expanded. For example, Ainsworth (2002) comments on the impact on the levels of notification in New South Wales as a result of the decision to extend the grounds for notification to include domestic violence. This has led to

<sup>3</sup> The report rate for family-based reports was 3.5 per 1,000 children

<sup>4</sup> Reporting rates include duplicate reports

<sup>5</sup> Reporting rates based on extrapolation from eight local authorities

<sup>6</sup> Rates based on reports to all SOS Enfants and Confidential Doctor Centres. There were also 0.5 per 1,000 children reported to the police (some of whom may also have been reported to the centres)

the subsequent routine notification of all cases of domestic violence that come to the attention of the police and others. The importance of this, he argues, is that in 2000, the police attended 97,000 instances of domestic violence, where 54,000 children were present. Ainsworth (2002) asserts that this is, at least in part, responsible for the significant increase in calls received by the Department of Community Services by March 2001 compared with the previous year.

Although trends in reporting cannot be compared across Canada because of differences in the data available, figures from Quebec show that here too, the introduction of reporting requirements resulted in a steep increase in reporting – a 100 per cent increase from 1982 to 1989 (Swift, 1997). Although during this time period the number of reports retained for investigation decreased from 68 per cent to about 55 per cent, staff in 1989 still had nearly 11,000 additional investigations to conduct compared with 1982.

Whilst the reasons behind these rises are complex, some maintain that the rapid increase in referrals for child abuse, particularly sexual abuse, has been even more pronounced in states with mandatory reporting laws, particularly for those in which the criteria for reporting has been expanded (Sinclair, 2004). It can be argued that these reports reflect a positive outcome, if mandatory reporting is seen to facilitate early notification, leading to successful intervention. However, Harries *et al* (2002) identify a lack of evidence to support the view that there is an improvement in capacity to parent once there has been an investigation and assessment of child abuse following mandated reporting to authorities. Furthermore, they claim that one reason mandatory reporting systems are unable to assist reported families is because the number of reports quickly exceeds any capacity to respond. Sinclair (2004) also argues that where there is more notification of possible abuse than the system can cope with, information about those really at risk is in danger of becoming lost amongst the many referrals that do not become substantiated. The increases detailed above therefore, can be seen to be problematic, since considerably more resources are necessary for handling and investigating reports, steadily diminishing the resources left to provide services to children and families at risk.

Harries *et al* (2002) cite evidence which suggests that although there is an increase in reports with the introduction of mandatory reporting, substantiation rates plateau quickly and reports slowly decrease. For instance, data from Canada appear to show that reporting rates were in decline from about 1990 – 15 years after the introduction of mandatory reporting. It is also useful to note that in jurisdictions where there is no mandatory reporting, but where there are protocols for referral, the reporting and substantiation rates are not generally different from those that have mandatory reporting laws (*ibid*).

## **Over-reporting and decreasing quality of reports**

As we have seen, arguments concerning the increasing number of reports that have accompanied the introduction and expansion of mandatory reporting laws are generally coupled with concerns about child protection systems becoming overburdened with notifications, many of which prove to be unsubstantiated. This appears particularly relevant in the USA, where it has been suggested (Foreman and Bernet, 2000) that the problem of over-reporting may be a consequence of misunderstandings of mandatory reporting laws. The rate of “unsubstantiated” or “unfounded” reports (cases that are closed after investigation) have also been equated with “false reports” and have been cited as evidence of both unnecessary intrusion into family privacy and wastefulness of scarce resources. These twin evils are presented as consequences of the nature and scope of current reporting laws (Giovannoni, 1995) and broadened definitions of child abuse, which include conditions of neglect that often derive from poverty-related circumstances (Gilbert, 1997). To support this Gilbert (1997) cites US Department of Health and Human Services statistics that show that in 1993 only 38 per cent of the child abuse reports investigated were substantiated or indicated (ie, not fully confirmed, but had sufficient reason to suspect maltreatment).

Similarly, it has also been argued that Australian mandatory reporting systems are overburdened with notifications, many of which prove to be unsubstantiated (Ainsworth, 2002). As such, services that are supposed to be targeted at the most at-risk children and families are overwhelmed, resulting in a system that is inefficient and ineffective. These conclusions are drawn from an inter-state comparison of child abuse reporting in New South Wales where mandatory reporting laws have been enacted, with child abuse reports in Western Australia, which has minimal mandatory reporting. The comparison covers data gathered between 1999–2000 and shows substantial differences between the two regions, with 21.3 per cent of notifications leading to substantiation in New South Wales compared with 44.2 per cent in Western Australia. This suggests that considerably more effort and resources are expended on unsubstantiated cases in New South Wales than in Western Australia. However, caution must be exercised when considering these figures, since there are other variations in the two child protection systems. It need not necessarily be the existence of mandatory reporting laws that accounts for the variation in substantiation rates, but the wider child protection system in which they operate.

Furthermore, this use of data to equate higher rates of unsubstantiation with negative outcomes for children fails to take account of the fact that “unsubstantiated” reports have information value that may help to avoid later abuse. It can be argued that “unsubstantiated” reports do not necessarily equate with false reports, and this should not be used as a direct measure of success or failure when considering the impact of mandatory reporting laws.

Despite these qualifications Canadian authors too, have highlighted over-reporting and high rates of unsubstantiated reports rates as problematic outcomes of mandatory reporting laws. Trocmé *et al's* (2003) analysis of reports of child maltreatment documented in the Canadian Incidence Study of Reported Child Abuse and Neglect (CIS) focuses on the low levels of severe harm identified as a result of child protection reports. The sample of 3,780 cases in which child maltreatment was substantiated was drawn directly from child welfare investigations conducted from October to December 1998. Of these, CIS documented some type of physical harm in 18 per cent of substantiated investigations, whilst a further 4 per cent involved severe harm requiring medical treatment. The study confirms that rates of severe harm tracked by the CIS are consistent with those of previous studies, which range from 3.8 per cent – 4.6 per cent of substantiated investigations. In addition, Harries *et al* (2002) argue that there is no evidence that the increase in the number of reports is associated with significant increases in high-risk categories being reported.

However, some caution is required when interpreting Trocmé *et al's* (2003) findings, as they do not offer any comparison with reporting and substantiation rates in regions that do not have mandatory reporting. Furthermore, the CIS documented only cases investigated by child welfare authorities; excluded from the study were cases reported only to the police, cases screened out before the investigation was complete, and reports on cases already open from earlier investigations. As well as this, the study only examined physical harm, although emotional harm was documented in one third of all substantiated investigations and 21 per cent of victims had emotional problems that required some type of treatment. Nevertheless, the authors recommend that investigation priorities and procedures need to be revised, in order to move away from the strict investigative procedures that dominate the organisation of Canadian child protective services and emphasise risk assessment (*ibid*). It is suggested that response systems should instead be designed to transfer non-urgent cases to intake teams focusing on assessing longer-term service needs. These findings lend some support to the view that in countries operating a child protection model there is little differentiation between the response to serious cases and more minor cases: a child protection investigation is the response to both.

## Under-reporting

Consideration of the evidence on over-reporting must, however, be tempered by the fact that despite the existence of mandatory reporting laws in a number of countries, many cases of child abuse still go undetected and unreported. Across Australia and the USA, there is a range of evidence to support the view that far from all professionals comply with mandatory reporting laws. For example, although US schools represent the largest single source of abuse reports, this represents only 24 per cent of all cases recognised by educators. Thus, schools are both the largest reporting source, and the largest under-reporting source (Crenshaw, 1995). In their research into mandatory notification training for suspected child abuse and neglect in South Australian schools, Hawkins and McCallum (2001a) argue that here too, despite legal reporting requirements, a growing body of empirical research indicates that educators often fail to report their suspicions of child abuse and neglect.

Webster's (2005) research into over-reporting and under-reporting of child abuse by teachers in Ohio provides further evidence to support the idea that teachers substantially under-report child abuse. A probability sample of teachers was selected from a list of public school teachers, and a list of non-public schools, provided by the Ohio Department of Education. Four hundred and eighty teachers completed an interview, (a completion rate of 78 per cent) in which they rated a random sample of 24 computer-generated vignettes that contained a combination of variables describing the characteristics of a potential child abuse event. The results showed that under-reporting was more prevalent (33.2 per cent) than over-reporting (4.2 per cent). This is consistent with previous research cited by the authors in which both over and under-reporting were identified as problems.

However, much of this research evidence relies on responses to hypothetical vignettes to measure recognition of abuse and reporting rates (Webster, 2005, Hawkins and McCallum, 2001a and 2001b). It is widely accepted that this methodology fails to tap into the complexities of the reporting decision, and provides a somewhat simplistic portrayal of the decisional processes that may take place in real life. Nevertheless, these findings have also been supported by research looking specifically at evidence of past

reporting behaviour. In addition to using vignettes, Crenshaw *et al* (1995) also asked the 664 teachers, counsellors and other school based professionals who took part in the research to provide information on their recognition and reporting of child abuse over the two years prior to the study. The data gathered indicate that within every type of abuse and neglect, many respondents had neither suspected nor reported. The authors note that the totals appear quite low, particularly given the two year time frame used in the research, and the likelihood that any teacher would entertain at least one abuse hypothesis during this time period. As such, the findings are presented as further evidence to sustain the view that under-reporting is a key problem, particularly for education professionals.

Van Haeringen's (1998) study also provides evidence of under-reporting by examining previous reporting behaviour, this time involving physicians in Australia. The research is based on 120 responses from practitioners (a 54 per cent response rate) selected from the Australian College of Paediatrics in Queensland, paediatric registrars at the teaching hospital in Brisbane North Region, and a sample of Queensland general practitioners. The results indicate that 43 per cent had, at some time, made a conscious decision not to report, despite suspecting a case of child abuse or neglect. The authors also note that the proportion of respondents in their study who had elected not to report a suspected case of abuse was higher than in US studies, although no figures are provided as evidence.

Lagerberg's (2001) research with child health nurses in Sweden also suggests that far from all professionals comply with the legal requirement to report. This study was carried out as a nation-wide survey in approximately 3,000 child health services centres. Nurses were asked to review their register of children aged one to six years of age and to provide anonymous information about each child for whom they currently felt anxious because of suspected or known maltreatment. Overall, 32.6 per cent of the total questionnaires issued were returned with the mention of at least one child (positive responses) about whom the respondent had concerns. However, the research highlighted a surprisingly low reporting rate amongst this group of professionals with only three in 10 of the positive responses from child health centres having made a report to the CPS. Furthermore, it was not the case that the centres with positive responses had reported *all* their identified children: in fact, only about one tenth had done so.

## **Other impacts of mandatory reporting laws identified in the literature**

A range of other arguments in the debate on mandatory reporting have been identified by Harries *et al* (2002) in their comprehensive review. The aim of their review was to present an appraisal of various methods of reporting suspected child abuse and their outcomes in terms of improving child protection for children in Western Australia. The findings were based on a review of the literature, and consultation with key stakeholders, who were identified by a process of snowball sampling: in all, responses were received from at least 158 people. Data from interviews, questionnaires and focus groups has been woven in with the analysis of data from the literature, and the authors stress that no attempt has been made to develop an empirical analysis of evidence based on the significance or otherwise of data. Instead, the diversity of views and the evidentiary basis for these views has been gathered and collated in the report, providing a useful overview of some of the key issues in the debate. These highlight a variety of positive and negative outcomes associated with mandatory reporting, ranging from a belief that the introduction of mandatory reporting laws educates the population about the appropriate processes for reporting child abuse, to the belief that fear of a punitive response discourages and inhibits self disclosure.

One further aim of the Western Australian review was to undertake an appraisal of options applying a cost benefit analysis of various forms of intervention. However, the authors conclude that, for a programme such as mandatory reporting, cost benefit analyses become virtually impossible to undertake. This is attributed to the immense scarcity of empirical evidence as to the effects of mandatory reporting legislation. The tendency for many of the outcomes attributable to mandatory reporting to lack empirical support and tangibility makes it very difficult to measure in terms of monetary value.

However, Giovannoni's (1995) article makes it clear the issue of resources is key to understanding levels of discontent in the USA child protection system. Despite the introduction of mandatory reporting, and the consequent expansion of the laws, there was no commensurate increase in resources. The author argues that herein lies the genesis of the current discontent with mandatory reporting laws in the USA, as limited resources have been further stretched by increased numbers of reports to CPS.



## Does mandatory reporting protect children and young people?

When reviewing the literature on the impact of mandatory reporting laws it is apparent that there is little empirical evidence to support or disprove the hypothesis that such legislation better protects children and young people. The limited evidence base which does exist suggests that the introduction of mandatory reporting can precipitate an increase in reports of suspected child abuse and neglect. However, whether this is a positive outcome or not remains contested, with a number of commentators raising concerns about the quality of these reports and the ability of child protection systems to deal with these increases appropriately. The context of the system in which mandatory reporting legislation operates has also been highlighted as a key consideration and it has been suggested that systems which respond to child abuse reports with punitive, legally based investigations aimed primarily at evidence gathering actually divert professionals away from safeguarding children and are of little or no real benefit.

In view of the current lack of empirical evidence and the paucity of available data, one way to explore outcomes might be to consider international rates of abuse related child deaths in relation to mandatory reporting legislation. This is one of the few available international sources of data that have been collected over an extended time period. In 2003 UNICEF, through the Innocenti Research Centre, published a league table of child maltreatment deaths in rich nations. These tables were based on data drawn from the 30 countries which are members of the Organisation of Economic Co-operation and Development (OECD)<sup>7</sup>. The Innocenti report presents information on abuse related deaths in the 1990s together with comparisons with figures from the 1970s.

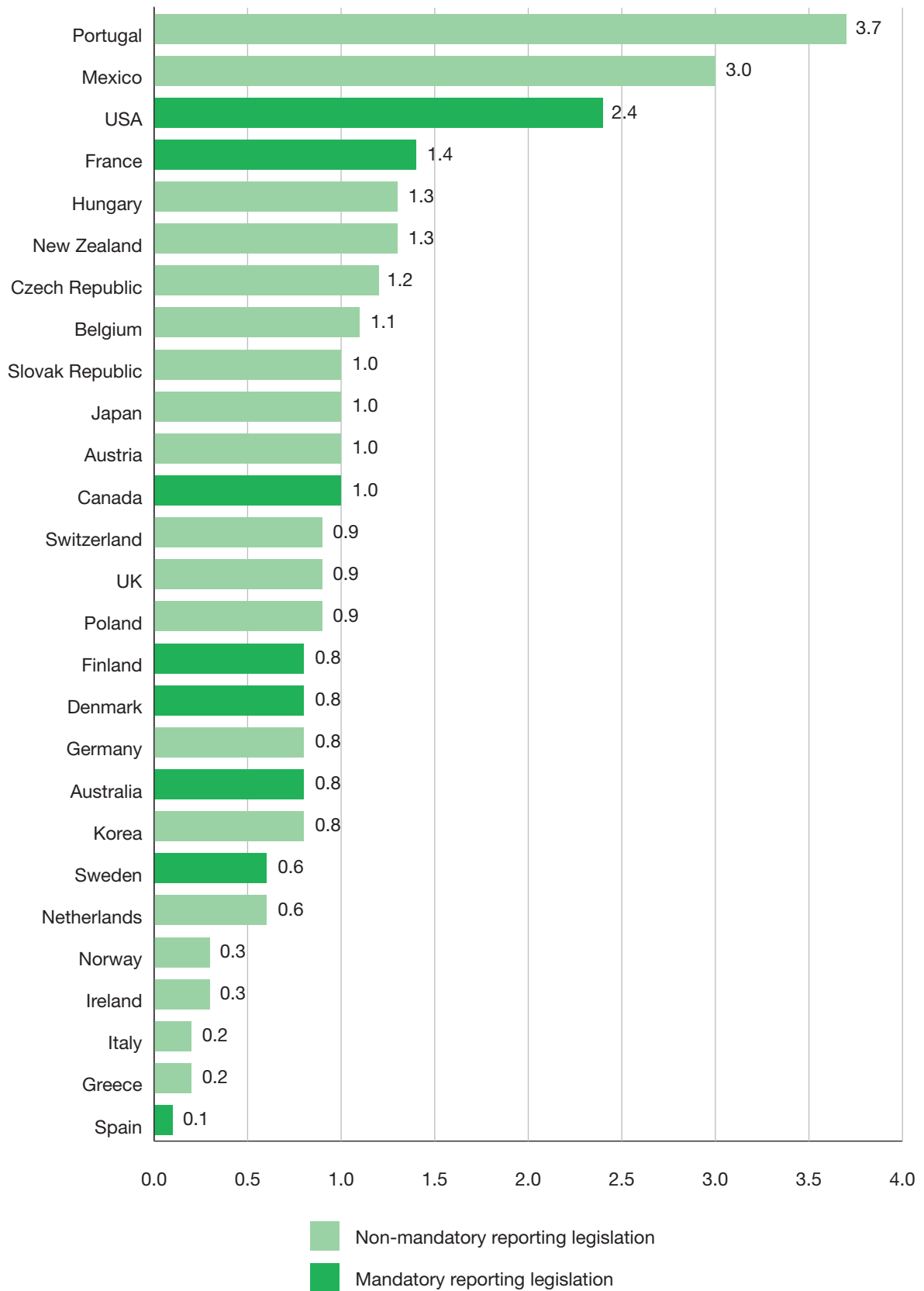
As with all such international comparisons, providing reliable figures that accurately reflect maltreatment deaths across a range of countries is beset by methodological difficulties. Focusing on deaths that have been categorised as abuse related will only provide information on the most extreme cases, in which maltreatment is the obvious cause of death. Small numbers of maltreatment related deaths mean that the rankings can be susceptible to slight and possibly random changes caused by small increases in individual countries. In order to take account of these limitations and provide a more realistic overview, the Innocenti Report (UNICEF, 2003) combined child deaths categorised as resulting from abuse with those categorised as being from “undetermined causes” and developed a league table based on five-year averages.

Considering the Innocenti data (see Figure 1) in relation to the presence of mandatory reporting legislation [based on the countries identified by WHO (2002) and Harries *et al* (2002)], the most obvious point is that the USA, which has the longest established mandatory reporting legislation, has one of the highest incidences of child maltreatment related deaths. On the other hand, Spain has the lowest rates whilst various other countries identified as having some form of mandatory reporting legislation are interspersed along the table, representing countries around the centre of the table as well as toward the lower end of the scale. However, variations in the nature of mandatory reporting legislation, not just within but between countries, and the influence of the wider social policy context, make it impossible to draw any firm conclusions.

Similarly comparisons between death rates in the 1970s and the 1990s also show mixed results. Overall, there were decreases in abuse related child deaths in 14 countries, stable rates in a further four and increasing rates in five (although in most cases these were so small as to be insignificant). In relation to mandatory reporting countries there were quite marked reductions in abuse related child deaths in Finland, Sweden and Australia (see Figure 3), whilst rates in the USA, Spain and Denmark remained the same and France and Canada were broadly similar with only a 0.1 change in either direction.

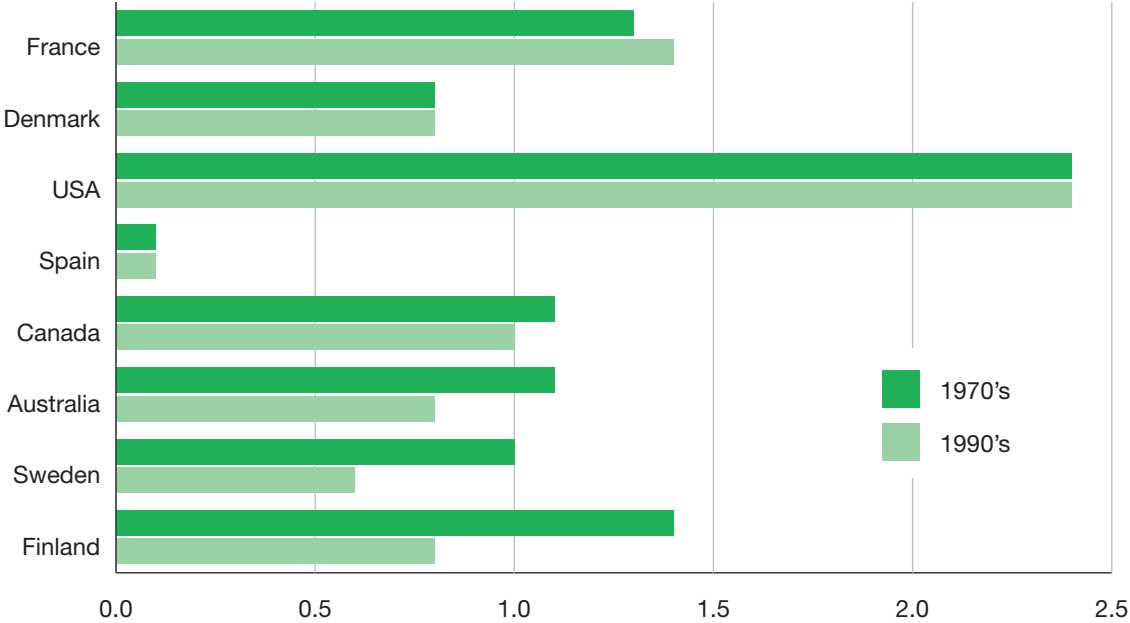
<sup>7</sup> This is a group of countries that produce two thirds of the world's goods and services. Members include Australia, Austria, Belgium, Canada, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, the Republic of Korea, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, Spain, Sweden, Switzerland, Turkey, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.

**Figure 2.** League Table of Abuse Related Child Deaths (1990s)



Source: UNICEF (2003)

**Figure 3.** Abuse Related Child Deaths 1970–1990 in Countries Identified as Having Mandatory Reporting Legislation

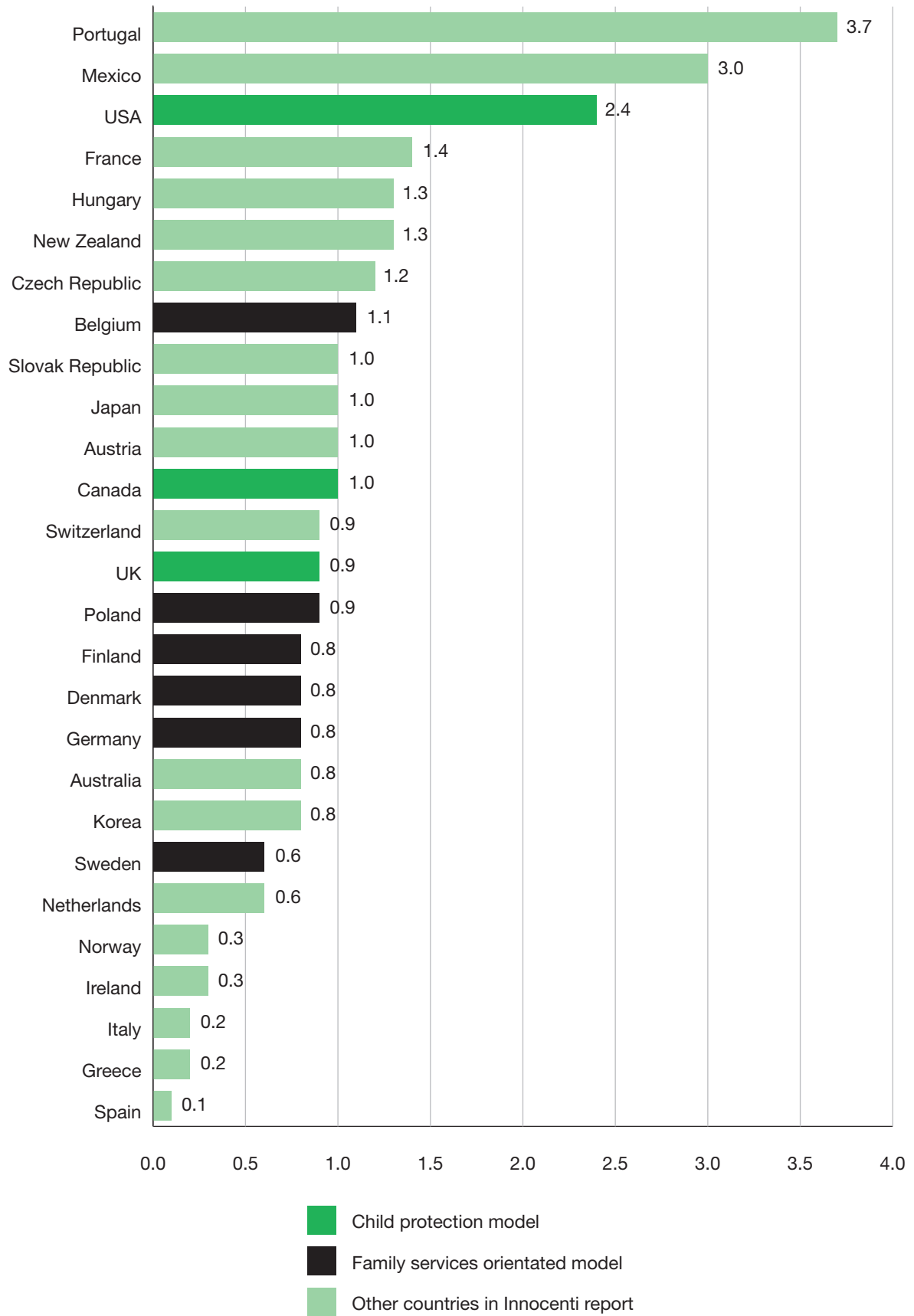


Source: UNICEF (2003)

Clearly, abuse related child death data is a very crude measure of the effectiveness of mandatory reporting legislation and many of the other factors which are likely to influence death rates in different countries cannot be adequately accounted for in this model. Nevertheless, the figures do lend some support to the view that, within the American context at least, the increased reporting attributed to the introduction of mandatory reporting legislation does not appear to have translated into better protection for children and young people. Even though the number of reported cases of child abuse and neglect in America has increased five-fold in the past 20 years there has been no corresponding reduction in abuse related deaths. This is despite the overall conclusion of the Innocenti report that child abuse related deaths are not only in quite marked decline in the majority of countries in the industrialized world, but that it is “probable” that child maltreatment itself has declined.

If we interpose Gilbert’s (1997) model of characterising systems as either child protection focused or family service oriented onto the Innocenti data, a clearer division emerges (See Figure 4). Whilst this can only be applied to the nine countries used in Gilbert’s original analysis, child protection focused systems are around the middle and upper end of rates of child maltreatment related deaths, with family service oriented models occupying the middle to lower end of the scale. This tentatively supports the claim that the more investigation focused, legalistic systems do not benefit children and young people as much as more family services orientated models. Overall, the data suggests that mandatory reporting alone is by no means a guarantee of success in reducing abuse related deaths and that the systemic response to maltreatment will have an important role to play.

**Figure 4.** Abuse Related Child Deaths in Relation to Gilbert’s (1997) Child Protection and Family Services Orientated Model



Source: UNICEF (2003)

## Key points

- **The evidence base for evaluating the impact of mandatory reporting is limited.**
- **Mandatory reporting appears to increase reporting rates. However, questions have been raised over high rates of unsubstantiated cases and the ability of systems to deal with these increases appropriately.**
- **The ethos of the child protection system impacts on the outcomes of mandatory reporting.**
- **The introduction of mandatory reporting legislation is unlikely to eradicate the problem of under-reporting.**
- **There is a lack of empirical data on how mandatory reporting better protects children and young people. Using data on child abuse related deaths allows some limited analysis of outcomes.**
  - Although it is difficult to draw conclusions about mandatory reporting based on abuse related deaths, there is some evidence that in the USA, increases in reporting are not reflected in decreases in child deaths.
  - Looking at abuse related deaths in relation to the child protection versus family services system classification suggests lower rates of death in countries with a family service oriented model.

## 3 Factors influencing the decision to report

As Section 1 highlights, mandatory reporting laws are relatively flexible and wide variations are apparent between countries and states in terms of the professional groups mandated to report. The rationale behind designating certain professional groups as reporters is fairly self-evident and is based on the premise that those groups in regular contact with children may be more able to accurately spot symptoms of abuse. However, Section 2 has also illustrated that many professional groups fail to report suspicions of child maltreatment, or may report cases that are unsubstantiated by child protection services. A number of studies in the review specifically explored the factors linked to the under-reporting of child abuse suspicions, as well as the impact of professional training.

### Factors linked to under-reporting

#### Quality of suspicion

Kenny and McEachern's (2002) US survey of the experiences of child abuse reporting of 116 middle and high school counsellors and principals identified a lack of physical evidence as a deterrent to reporting. This is supported by the research undertaken by Crenshaw *et al* (1995), who considered the factors distinguishing reporters from non-reporters by presenting vignettes depicting child abuse and neglect to a range of education professionals in Kansas, USA. The participants were asked to rate the impact of 16 items on their decision to report, to establish whether non-reporters held beliefs supporting a decision not to report abuse. The results showed reporters to be more willing to base their decision on suspicion rather than solid evidence, whilst non-reporters were unwilling to make reports without greater evidence.

Similarly, Hawkins and McCallum's (2001b) research into the effects of mandatory notification training also found that amongst South Australian teachers, quality of suspicion had an important impact on the decision to report. In this research, comparisons were drawn between a "no training" group (31 respondents), a "recent training" group (41 respondents), and an additional group of participants who had received training some time ago (73 respondents). Using the Crenshaw Abuse Reporting Survey methodology (Crenshaw *et al*, 1995) five hypothetical vignettes were rated by participants. The results from this study showed that lack of observable evidence in the case of emotional and sexual abuse had an important impact on the reporting decision of untrained participants. However, the low response rate (between 27 per cent and 37 per cent for the three groups) should be noted. Although this is comparable with a typical return rate for a mail survey, the effect of this low response rate on the validity of the study remains unknown.

#### Nature of abuse

An "abuse hierarchy" is also evidenced in the literature detailing factors impacting on reporting behaviour. Levine's (1983) reporting hierarchy (cited in Crenshaw *et al*, 1995) identified physical abuse as the type of abuse most often reported, followed by physical neglect, emotional abuse, emotional neglect, and sexual abuse. Levine's findings were supported by the research undertaken by Crenshaw *et al* (1995) with the primary difference being the placement of sexual abuse well above emotional abuse. Crenshaw *et al* (1995) hypothesise that increased awareness of and attention to the prevalence of sexual abuse may be responsible for raising its placement in this hierarchy.

#### Demographics of reporter and victim

Rodriguez's (2002) study highlights variations in the reporting decisions of different professional groups. A total of 255 health, education and mental health professionals participated in the study giving an overall response rate of 38.7 per cent. The sample was randomly selected from a list of schools provided by the New Zealand Educational Institute, all psychologists and psychotherapists registered with the New Zealand Psychologist Board, and all general medical practitioners registered in Otago. The research examined reporting decisions with regard to 12 abuse scenarios and compared them for accuracy with judgements made by child protection services. Given the absence of mandatory reporting legislation in New Zealand, this research provides a unique opportunity to investigate potential subjective and situational influences. The results indicated no significant gender difference in overall accuracy of reporting decisions, and, in contrast with previous findings of female bias, women in this sample were not more inclined to report. The researchers suggest that in the absence of legal requirements women are not more inclined to report than

men, but in countries where abuse reporting is legally required, women may report because they are socialised to be more compliant.

Crenshaw *et al's* (1995) research with educational professionals also found that neither the gender of the child victim or that of the reporter had a significant effect on reporting tendency, although this research did not cover victim gender bias in actual reporting behaviour. The length of time in practice however, has been shown to impact upon professional reporting decisions with one study (Van Haeringen, 1998) indicating that physicians in practice longer are less likely to report.

### **Professional awareness**

Findings from the research undertaken by Hawkins and McCallum (2001b) show that in the case of suspected neglect, emotional abuse and sexual abuse, difficulty defining symptoms of abuse or neglect amongst the untrained group of education professionals had an important impact on their reporting decision. The authors suggest that these types of abuse are often ambiguous and the inability of respondents to identify symptoms reduces the likelihood of reporting. Similarly, Crenshaw *et al's* (1995) findings showed that non-reporters generally rated difficulty defining the symptoms of child abuse or neglect as having a greater impact on their decisions than reporters. It is clear that educators' ability to recognise the symptoms of child abuse directly impacts on their reporting decision – especially when the symptoms are emotional, sexual or the result of physical neglect.

Research into physicians' attitudes of suspected child abuse and neglect (Van Haeringen, 1998) shows that despite the high degree of suspicion that should have been generated by the case examples used in the study, almost 20 per cent of the practitioners indicated that they would not report the case as suspected abuse or neglect. This suggests that improving the ability of physicians to identify symptoms of abuse may help counter under-reporting.

### **Professional perceptions of the child protection system**

For a range of professionals it is not just a lack of skills that impacts negatively on reporting decisions: negative attitudes towards the CPS are also consistently identified as impediments to reporting. However, this factor was found to have a negligible impact upon the decision to report in the study conducted by Hawkins and McCallum (2001b). Research undertaken by Rodriguez (2002) into the attitudes of health, education, and mental health professionals' reporting decisions in New Zealand also found that as a group, the respondents did not consider reporting of abuse to be more harmful to children than not reporting.

Crenshaw *et al* (1995) however, found that the extent to which respondents distrusted the CPS, and the extent to which they allowed this distrust to impact upon their decision to report, was related to the type of abuse portrayed. The greatest impact was found to be on the emotional abuse and neglect scenarios, decreasing in impact in the suspected physical abuse scenario and disappearing in the sexual abuse scenario.

### **Professional concerns about confidentiality**

Crenshaw *et al* (1995) also identify another factor that would appear to have an important impact on reporting behaviour: the belief that reporting might damage the professional relationship with the student, client or family. However, this was shown to have a mixed influence. In most scenarios, both reporters and non-reporters showed equal concern for this issue. On the other hand, in the emotional abuse and neglect scenarios it appeared that some respondents were less willing to risk damaging professional relationships by reporting more ambiguous cases of abuse.

Rodriguez (2002) also found that across occupations, professionals in New Zealand did not feel that their reporting decisions were strongly influenced by their concern over their relationship with the family or because of their familiarity with the family. The results from this study, however, are also consistent with previous research suggesting that mental health professionals may be especially resistant to mandatory reporting laws. This is most likely to be attributable to the strong professional socialisation regarding confidentiality, which is integral to their professional identity.

### **The impact of professional training**

Throughout the literature there is widespread support for the idea that, in order to maximise the utility of mandatory reporting legislation, professionals mandated to report will benefit from training: both in the recognition of the symptoms of abuse and in the reporting process. Mandated notification training has been

provided for educators and other mandated reporters in South Australia since 1989, and there is evidence that this increases awareness of the indicators of abuse and neglect, as well as increasing support for mandatory reporting (Hawkins and McCallum, 2001b). This research found that in situations where clear evidence of abuse was present, respondents were generally quite willing to report. In these circumstances training made no difference to willingness to report. However, where evidence of abuse was more ambiguous, willingness to report was lower, and training increased the likelihood of reporting. The researchers conclude that where the law does not require mandatory reporting, it is probable that only the more blatant examples of abuse will be reported.

Hawkins and McCallum (2001b) also conducted an empirical investigation of the South Australian Education Department Mandated Notification Programme to evaluate the training against its stated aims. Results showed evidence of a link between completion of the training programme and increased confidence in ability to recognise the indicators of abuse. Training was also related to increases in participants' awareness of their reporting responsibilities, knowledge of what constituted reasonable grounds, and an understanding of how to respond appropriately to a child's disclosure of abuse. The study employed an objective measure of knowledge change, where participants were asked to list examples of the indicators of abuse. The greater number and range of examples provided by the trained respondents validated the finding of increased confidence and awareness.

However, despite these positive findings research has also suggested that educating mandatory reporters about their reporting responsibilities will not necessarily ensure compliance with the legislation (Hawkins and McCallum, 2001a). It seems that even some trained individuals are reluctant to base reports solely on suspicion. The authors suggest that for some teachers there is clearly a mismatch between the level of evidence required by law and the level teachers expect to satisfy their own personal need for confidence in initiating the serious step of a child abuse report. This mismatch appears to remain after training and may contribute to the significant occurrence of non-reporters or discretionary reporters noted in the literature.

This is supported by findings from Crenshaw *et al's* (1995) study of the recognition and reporting of child abuse. This sample of educational professionals was found to be uniformly aware of and supportive towards mandatory reporting, but inconsistent in reporting tendency. The authors therefore surmise that there is no evidence for the conclusion that improving the knowledge, understanding, and support for mandatory reporting increases reporting tendency and rate. However, this is not taken as an indication that mandatory reporting training is not worthwhile. Instead, it is suggested that future training must go beyond restating the obvious to emphasise some of the salient issues raised in the literature that have been shown to impact on reporting tendency. The authors argue that training must teach educators to look at themselves as a first line of defence against child abuse, explain how to achieve reasonable suspicion, and demonstrate ways to avoid extraneous issues that should not impact on their decision.

In turn, this suggests that careful consideration must be given to the need to tailor training programmes to individual professional groups, given the different ways mandatory reporting laws have been shown to impact upon them. Psychologists in New Zealand for instance have been found to be relatively well informed about their legal obligations, despite being one of the most resistant occupational groups when confronted with reporting suspected abuse. It has been shown that professionals most opposed to any type of mandatory reporting laws are least accurate in their reporting decisions, despite being the most certain of their decisions (Rodriguez, 2002). These results indicate that those who are resistant to child abuse reporting appear to under-report and hold attitudes consistent with their bias against reporting. For this group, training is likely to play a vital role in addressing misconceptions and reducing rates of under-reporting, as well as improving the quality of reports that are made.

For medical practitioners, research undertaken by Van Haeringen *et al* (1998) suggests that many remain ignorant of the epidemiological evidence enabling appropriate risk allocation to childhood injury. Further education of medical practitioners about the epidemiology of childhood injury and the presentations and differential diagnosis of child abuse would seem appropriate for this professional group.



## Key points

- **Factors associated with under-reporting:**
  - A perceived lack of evidence
  - Nature of abuse (physical neglect, emotional abuse and neglect less likely to be reported)
  - Length of time in practice (for physicians)
  - A lack of skills
  - Fear of negative consequences
  - Professional concerns about confidentiality
- **Professional training has been linked with increased awareness of the indicators of abuse, increased support for mandatory reporting and increased likelihood of reporting.**
- **Nevertheless, there are indications that, despite legal obligations, there will always be a group of mandated reporters who fail to report.**

## 4 UK and Northern Ireland policy context

In Gilbert's (1997) comparative analysis the UK was considered to have a system that lay somewhere between the child protection model and the family services model. However, even within the UK, variations in legislation are apparent and each jurisdiction operates within a slightly different child protection system. The salience of the debate on mandatory reporting also differs within the UK and although developments in the Republic of Ireland have raised the profile of this issue to a degree in Northern Ireland, the debate in other areas of the UK is less active. This section looks at the different UK reporting systems and related policy developments and considers the implications for the Northern Ireland context.

### England and Wales

The reporting model currently in use in England and Wales, similar to the Western Australian system, relies on voluntary reporting supported by inter-agency protocols. Prior to the introduction of the Children Act 1989, the possibility of certain professionals having a duty to report was considered in England and Wales but ultimately rejected in favour of the status quo. This reliance on voluntary reporting has hinged on the expectation that, although not bound by a duty to report child abuse, professionals working with children will co-operate with each other and exchange information within a procedural context. Social services departments, for example, are expected to report abuse to the police whenever a criminal offence has been, or may have been committed. Furthermore, national guidance on child protection sets out the roles and responsibilities of a range of professionals in regards to safeguarding and protecting children from abuse. These guidelines are widely available and periodically updated (DFES, 2006, 1999).

Nevertheless, in spite of the values of co-operation espoused in publications such as *Working Together to Safeguard Children* (2006), recent high profile reports, such as the Climbié Inquiry (2003) and the Bichard Inquiry (2004), have identified continued failures in child protection measures and information sharing processes. This has led the UK government to legislate to improve inter-agency co-operation and hence, implicitly, information sharing and inter-agency reporting arrangements. Section II of the Children Act (2004) for example, created a new statutory duty for a range of bodies to safeguard and promote the welfare of children. In giving effect to this, the government has created the legal capacity to develop information sharing databases.

The Local Safeguarding Children Boards<sup>8</sup> (LSCBs) Regulations (2006) further underpin structured co-operation by placing a duty on LSCBs to collate and analyse information about each child death in their area (Regulation 6). In addition, under provisions of the recently enacted Safeguarding Vulnerable Groups Act (2006), the UK government has introduced a duty on local authorities to provide the newly created Independent Barring Board (IBB) with prescribed information in certain circumstances (Section 39) where an individual has harmed or posed a risk of harm to a child.

Although mandatory reporting legislation does not exist in this jurisdiction, it could be argued that these procedural and legislative developments have paved the way for structured information exchange to safeguard children. This could be seen as a form of selected professional mandatory reporting in all but name: the basic difference being that professionals will not face criminal prosecution for non-compliance, although professional disciplinary procedures would be likely.

This increased emphasis on information sharing has also raised questions about confidentiality and how this may impact on children's disclosures of abuse and accessing of professional help, particularly in relation to sexual health services. For example a recent English survey exploring young people's views on the importance of confidentiality to accessing sexual health services found that 56% of the 295 respondents selected confidentiality as the most important quality of a sexual health service (Thomas, Murray & Rogstad, 2006). Indeed only 16% indicated that they would feel uncomfortable being asked sensitive questions about issues such as illicit drug use or non-consensual sex but 90% said they would be more likely to answer questions honestly if they knew the service was confidential. In total 86% indicated that they would be more likely to use a clinic if it was confidential and over half said that they would not use a service if it was not confidential. Whilst these findings relate to views rather than actual behaviour, they indicate that confidentiality is very important to young people and is likely to impact on service use.

Similarly, a recent review of the research literature in this area carried out by the NSPCC (Evans, 2007) further highlights the importance of confidentiality to children and young people. This review explores the

different sides of the confidentiality debate, examining various thresholds of confidentiality and making a case for a mixed economy of service provision with differing confidentiality thresholds to best meet the varying needs of children. This is a developing debate and one which has obvious links and implications for reporting systems and the circumstances in which professionals report suspicions of child abuse or pass on information relating to child protection.

## Scotland

In Scotland, local authorities have the duty to safeguard and promote the welfare of children who are in need in their area. This means that when a local authority receives information that suggests that measures may be needed to protect a child, they have a duty to make inquiries into the circumstances (if they consider this to be necessary). If they then believe that there may be a need for compulsory measures of care they have a duty to refer the case to the Children's Reporter. Police likewise have a duty to refer if they have concerns, whilst other agencies can refer but have no duty to do so. It is then the reporter's responsibility to decide whether the case warrants referral to a children's panel for compulsory measures.

Aside from these legislative provisions, however, most of the child protection system in Scotland is based on Scottish Executive guidance: *Protecting Children and Young People: A framework for standards* published in 2004. This states that all professionals who come into contact with children should recognise and be alert to the signs that children may need protection. Where a professional has a suspicion or belief that a child may be in need of protection, and when this is in the child's best interests, the guidance states that they must discuss these concerns and any relevant information with social work or the police (*Edinburgh Lothian Borders Executives Group 2007*).

Local inter-agency guidelines similarly place a clear requirement on professionals to report any concerns about child abuse or risk of child abuse to social workers or the police: "*Professionals should refer all cases where there is knowledge of or suspicion that a child is suffering abuse or is at risk of suffering abuse to the Police or Social Work. It is the responsibility of these statutory agencies to determine the significance or otherwise of the collated information.*" (p32) Whilst these guidelines are not statutory, there is an expectation that professionals will adhere to them. Again, the Edinburgh and Lothian's guidelines (2007) state that "*such is the importance of these guidelines in setting out standards of inter-disciplinary co-operation, collaboration and practice, it is recommended that any practitioner who decides against following clearly recommended courses of action or agreed procedure should have valid professional reasons for this, which should be recorded.*" (p4)

In response to tragic failures to share information about children who were at risk, in 2006 the first minister announced plans to place information sharing by all agencies around child protection on a clear statutory basis. As a result, the Protection of Vulnerable Groups (Scotland) Bill proposed a new statutory duty on public agencies (and voluntary organisations under contract to these agencies) to share "child protection" information; ie information that is relevant for the purposes of protecting a child from harm. Under the proposed legislation agencies would be required to cooperate with each other and have regard to a code of practice. Whilst ministers emphasised that the proposed duties would not be subject to enforcement immediately, the Bill allowed ministers to make such provisions in the future.

However, due to considerable concerns about the potential unintended consequences of the Bill and the detail of the drafting, these proposed duties have been withdrawn from the Bill for further consultation. It is expected that similar duties will be introduced in upcoming children's services legislation, whilst a national code of practice for all public agencies around sharing child protection information will still be developed to provide greater clarity around what information can and should be shared.

## Northern Ireland

As noted previously, Northern Ireland is the only UK jurisdiction that has legislation providing for a criminal offence of failing to disclose an arrestable offence to the police (although before a prosecution is possible the consent of the attorney general is required). However, there has only been limited use of this provision and it is unclear if any of those prosecuted were done so on the basis of withholding information relating to child protection concerns. As such, this legislation exists as a technicality for all offences, rather than a concerted effort to target the problem of child maltreatment.

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<sup>8</sup> These are the successors of Area Child Protection Committees (ACPCs) in England and Wales and have been in place nationally since April 2006. Their key roles are to develop policies and procedures for safeguarding and promoting the welfare of children; participate in planning and commissioning services; to communicate and raise awareness; conduct serious case reviews; collect and analyse information in relation to child deaths; and monitor and evaluate.

Despite the technical existence of mandatory reporting in Northern Ireland, the reporting systems here are comparable to those in the rest of the UK, and Northern Ireland has witnessed similar development of protocols for improving inter-agency working and information sharing. In March 2006, the Minister for Health announced the introduction of a regional child death review protocol to facilitate multi-disciplinary assessment of the causes of child deaths in Northern Ireland and better targeted preventative strategies. However, unlike England and Wales, this is on a non-statutory basis.

In light of the recommendations made in the Bichard Report (2005), the Police Service for Northern Ireland is also currently working with social services to develop an information sharing protocol to ensure that information on those who may pose a risk to children is passed between agencies. This will facilitate the potential identification of recurrent patterns of offending behaviour against minors and referral to the IBB where appropriate. It will also ensure that relevant information is recorded in the police intelligence system, thus enabling a future connection to be made if vetting checks and subsequent disclosure of soft intelligence (made under Part V of the Police Act 1997) raise concerns about individuals applying to work with children. These provisions are broadly similar to those contained within the Children Act (2004). Additionally, the creation of a Northern Ireland Regional Safeguarding Board will be enacted in 2007, and a Northern Ireland Safeguarding Vulnerable Groups Order will establish identical provisions in vetting and barring arrangements as in England and Wales.

Nonetheless, recent research examining the reporting behaviours of a number of professional groups (Lazenbatt, 2006) indicates that, as in other countries, under-reporting of child abuse is still a significant issue in Northern Ireland. The survey, which looked at the reporting behaviour of almost 1,000 community nurses, general medical practitioners and general dental practitioners, found that two in five reported not having seen or suspected at least one case of child physical abuse in their career. Of the 60 per cent who had seen at least one suspicious case, 47 per cent had reported it to the authorities, leaving a shortfall of 13 per cent who had not acted on their suspicions. In keeping with the research literature, the professionals also commented on misidentification of abuse, uncertainty over reporting processes, lack of multi-disciplinary education and concerns over social services responses as key factors impacting on reporting behaviour.

Clearly under reporting child abuse and neglect is a problem in Northern Ireland. However, as in other jurisdictions, this is not always a straightforward issue with sexual health provision being a particularly contentious area in terms of reporting. Anecdotal evidence suggests that, although unlawful carnal knowledge of a girl under 14 is an arrestable offence and should, in principle, be reported to the police under Section 5(1) of the Criminal Law Act (1967), few referrals had ever been made to the Police by sexual health professionals. To address this, a version of the Sheffield Protocol was included in the 2006 Area Child Protection Committees' Regional Policies and Procedures (EACPC, NACPC, WACPC, SACPC, 2000).

The Sheffield protocol provides good practice guidance for sexual health professionals on how to respond to consensual under-age sexual activity, indicating that cases involving under fourteens should necessitate a discussion with Social Services and/or the Police. The inclusion of this protocol in the regional child protecting policies and procedures caused concern amongst a range of medical professionals about protecting the confidentiality of the young people who access such services. These concerns echo those raised in Thomas, Murray and Rogstand's (2006) survey and go to the heart of the debate around mandatory reporting and the potential such legislation has to limit the provision of confidential spaces for young people and act as a barrier to accessing services.

Evidently the difficulties associated with balancing confidentiality and protection cannot be underestimated. In Northern Ireland there is a clear need to address under-reporting and improve information sharing processes whilst, at the same time, giving due to consideration to how such developments might impact on young people and how they access much needed services. The international experience suggests a number of options, each with their own particular strengths and weaknesses, are available within the Northern Ireland context.

One approach might be to include raising awareness of the existing legislation, or the introduction of full mandatory reporting legislation requiring all Northern Ireland citizens to report suspected child abuse. This approach would raise the profile of child abuse, clearly acknowledging its seriousness and reinforcing the moral responsibility community members have, and would most likely result in an increase in reporting. However, the international evidence raises concerns about overburdening already stretched child protection services, as well as the quality of increased reports, many of which have been found to be unsubstantiated. Equally, it is argued that the American system of mandatory reporting has led the general public to equate child protection with reporting and investigation, resulting in child protection being perceived as primarily the responsibility of the CPS. This option would also have major implications for the development of confidential services and spaces for children and young people which would require much further debate and clarity.

Another option would be to focus on introducing selected mandatory reporting to cover designated professional groups. The scope of this would be more flexible, since the range of professionals mandated could be narrowly or broadly defined. However, many of the same caveats apply and this too would have implications for the development of confidential spaces, depending on the professionals groups mandated. Equally, as international and local research indicates, professional groups are by no means exempt from under-reporting or over-reporting child maltreatment.

A further option would be to follow the Western Australian model by maintaining a system of voluntary reporting strengthened by interagency protocols. Indeed, this approach would be in keeping with recent developments in NI as well as those in other UK jurisdictions. Proponents of this model support a child focused response that is based on interagency protocols for sharing protective concerns about children and families. They also argue that reporting to invoke statutory action as a position of “last resort” may be just as effective, if not more so, than a system focused only on scrutiny, investigations and censure. A voluntary system of reporting strengthened by professional guidance and interagency protocols would also have the added benefit of providing a more flexible environment in which to develop confidential spaces for children and young people who wish to access support.

Whilst consensus as to the precise impact of different reporting systems is lacking, one finding that emerges from the international evidence is that, despite the introduction of mandatory reporting laws and information sharing protocols, there always remains a group who fail to report child protection concerns. Clearly legislative or policy change cannot, in itself, provide a straightforward solution to this complex issue. To this end, the importance of training to inform and educate professionals about child abuse and associated reporting procedures is heavily emphasised in the literature. Indeed, it is argued that there is no evidence to suggest that the education associated with the introduction of mandatory reporting is any better or worse than a separate public education campaign targeted at educating people about the need to protect children and identify abuse. As such, educating and training professionals and/or the general public would appear to be a key task in tackling under-reporting and improving information sharing.

Whilst it is extremely difficult to isolate the direct impact mandatory reporting legislation has on the protection of children and young people, the international data suggests that mandatory reporting is unlikely to lead to improvements in this area. Based on the available evidence, it would seem that a voluntary system of reporting strengthened by interagency protocols and guidance and accompanied by professional training and awareness raising would be the preferred option in Northern Ireland. This would necessitate repealing Section 5 of the Criminal Law in relation to child protection situations. This would not only bring Northern Ireland into line with the rest of the UK but would facilitate exploration of how professionals balance protection and confidentiality when providing support services to children and young people.

### Key points

- **Whilst minor variations in legislation and policy exist within the UK, there is a tendency toward voluntary reporting systems increasingly supported by inter-agency cooperation and protocols. This increased emphasis in information sharing has implications for the level of confidentiality offered to children and young people and the potential impact this may have on their willingness to access services needs to be considered.**
- **NI differs from other UK regions in that it, technically, has mandatory reporting legislation.**
- **As in other jurisdictions under reporting is a significant issue in NI.**
- **Developments to improve reporting and information sharing need to be considered in light of how they may impact on the levels of confidentiality offered to young people. The international experience suggests a range of options. These include:**
  - Introducing full mandatory reporting alongside an appropriate training and awareness campaign;
  - Introducing selected mandatory reporting specifying designated professional groups;
  - Maintaining a voluntary reporting system strengthened by the development of interagency protocols.
- **Based on the available evidence a voluntary system of reporting strengthened by inter-agency protocols and guidance would appear to provide an effective but flexible framework for child protection.**
- **Regardless of the reporting system in operation there will always be a group who fail to report. Continued education and training for professionals and/or the general public is a key element in tackling non-reporting.**

## 5 Conclusion

Considering the various international perspectives identified in this review, it is evident that a range of reporting systems exist. Some countries and regions utilise voluntary reporting systems but employ inter-agency protocols that are almost equivalent to mandatory reporting, for example, Western Australia. Even within a strong and well-established culture of mandated reporting, as for instance found in the USA, the specifics of legislative arrangements can vary considerably. Thus, we have differences in mandatory reporting systems both within and between countries: from the Yukon Territory, Canada, with its minimal professional coverage, to the state of New Jersey, in the USA, where all persons are mandated to report. The broad spectrum in between ranges across designated professionals, who are often specifically identified in the legislation by virtue of their frequent contact with children and young people and deeper knowledge and understanding of typical child development and behaviour. Variations are also apparent in relation to the limits of professional confidentiality, definitions of child abuse and timeframes for reporting.

This review has highlighted the difficulties in achieving clarity or even consensus with regard to the debate on mandatory reporting. It is apparent that the introduction of mandatory reporting entails a diversity of options, from consideration of the most appropriate groups to be mandated, to decisions about the thresholds for reporting and issues of professional confidentiality. In light of the differences between the various models currently in existence, there are inherent difficulties in comparing mandatory reporting laws, particularly when considered in terms of the wider child protection systems in which they operate. It is difficult to attribute increases in reporting, varying rates of substantiation, or rates of under-reporting to mandatory reporting laws themselves, although there does appear to be link between the introduction of such legislation and an increase in reporting. However, since the context in which mandatory reporting legislation exists is widely considered to influence outcomes, whether this should be taken as a positive outcome is contested.

Inevitably there is also a lack of empirical data with which to test the hypothesis that mandatory reporting better protects children and young people. International data on child abuse related deaths enables some exploration, although it is difficult to draw any firm conclusions and such analyses should be treated with caution. Nonetheless, international comparisons suggest that, in America at least – the country with the longest established mandatory reporting laws – increases in reporting do not appear to have been reflected in a reduction in abuse related deaths. The international data on abuse related deaths also provides some support for the view that the ethos of the child protection system is a factor in determining outcomes for children, with those countries classified as having a stronger family services orientation appearing to have lower rates of abuse related child deaths when compared with countries considered to have a more legally focused, investigation based system.

The literature also suggests that, despite legal requirements to do so, there will always remain a group of mandated reporters who fail to report child protection concerns. To this end, a number of studies in this review specifically investigated the factors which influence reporting rates, covering a range of professional groups as well as a variety of jurisdictions. Hypothetical vignettes were commonly used as a predictor of reporting behaviour, an approach which, as noted, is often limited in its ability to capture the real life dynamics of decision making processes. Nevertheless, these studies do offer a valuable insight into the factors that are likely to influence reporting decisions, particularly where they have been supported by data on actual reporting rates.

A perceived lack of evidence, the type of the abuse suspected, length of time in practice, a lack of skills, fear of negative consequences and professional concerns about confidentiality were all found to be linked with under-reporting of suspected child abuse. Training emerged as central to the successful introduction of mandatory reporting laws and, was linked with increased reporting rates as well as increased quality of reporting. When considering the nature and scope of factors that influence professional decisions it, again, becomes clear that mandatory reporting laws cannot be considered in isolation. The impact and outcome of these laws are heavily influenced by the broader context in which they operate, and the way in which they are viewed by those mandated to report.

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“The complex, unique and holistic character of child protection systems means that simple transplantation of practices from one national context to another is unlikely to work, because they are systemically related to everything around them” (Cooper, 2002).

Whilst some variations are evident within the UK systems, England, Scotland and Wales share a propensity towards a system of voluntary reporting in which professional reporting obligations are emphasised through national and local guidance. More recently, this has also included the development of interagency protocols which emphasise information sharing and structured co-operation. These developments could be seen as a version of selected mandatory reporting, albeit emphasising information sharing as a professional obligation, rather than a legal requirement. However they have also raised questions about the limits of confidentiality and the potential impact this might have on young people accessing services.

Although Northern Ireland differs in that it is the only jurisdiction to have a form of mandatory reporting legislation, this exists as more of a technicality rather than a specific effort to target child maltreatment. To date, the Northern Ireland system has been more akin to the voluntary systems of reporting strengthened by inter-agency protocols currently in operation elsewhere in the UK. Nonetheless, recent policy developments in this area have placed an emphasis on professional information sharing which, as in other parts of the UK, have raised concerns about how these arrangements impact on the provision of confidential spaces for young people, particularly in relation to sexual health services. Equally, despite the existence of technical mandatory reporting, under-reporting of suspected cases of child maltreatment also continues to be a significant issue in Northern Ireland.

Based on the diversity of mandatory reporting systems and available evidence this report has considered a range of potential options that might be adopted in an attempt to address this. These options range from: awareness raising with regard to the existing legislation; the introduction of selected or full mandatory reporting legislation specifically linked to child maltreatment; or retention of the current voluntary system, whilst continuing to strengthen interagency protocols and information sharing arrangements.

Again it is worth reiterating that the evidence base relating to the impact of mandatory reporting laws is lacking. Perhaps the most salient point to note is the polemic nature of many of the arguments, and the fact that most of the “evidence” is inferential and presumptive. However, whilst the options listed above each have a number of potential strengths and weaknesses, the one clear message emerging from the literature is that the introduction of mandatory reporting, in isolation, is by no means the solution to the non-reporting of child abuse. Indeed, it would appear that a voluntary system strengthened by guidance and inter-agency protocols and accompanied by appropriate professional training and public awareness raising can provide an effective but flexible framework within which to protect children.

To this end NSPCC recommends:

1. Repealing Section 5(1) of the Criminal Law (Northern Ireland) Act (1967) as it relates to child protection interfaces.
2. Strengthening information sharing protocols and clarifying reporting processes for different professional groups. This should involve having an open debate about how best to balance confidentiality and protection to more effectively meet the needs of children and young people.
3. Continued education and training in order tackle non-reporting amongst professionals coupled with increased public awareness raising, regardless of the reporting system in operation.

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