

New requirements relating to reporting and acting on child abuse

Home Office

RPC rating: fit for purpose

The IA is now fit for purpose as a result of the Department's response to the RPC's initial review.

Description of proposal

The proposed options are intended to address a failure of professionals that work with children across a range of settings in responding appropriately to suspicions or knowledge of instances of child abuse. The consultation is intended to explore whether it is necessary to change the laws regarding the liability of professionals who may be aware of signs of child abuse, on both an individual and organisational level.

A recent campaign aims to educate professionals on the signs of child abuse and the appropriate course of action. Although there is currently strong encouragement that signs of child abuse be reported, there is no legal requirement for the professional to do so.

The IA discusses three options without identifying a preferred option. In addition to the counterfactual of ongoing reforms to the social care system, the IA considers the introduction of:

- a mandatory reporting duty in relation to suspected child abuse; and
- a 'failure to act' offence.

Penalties could include a range of professional and/or criminal sanctions against individuals or organisations. It appears the key difference between the two regulatory options is upon whom the onus of proof falls: a mandatory reporting duty would mean liability automatically falls on professionals unless they can prove their innocence when being accused of negligence, whereas a 'failure to act' offence would require the prosecution to provide evidence that a professional was either negligent or was actually aware of the suspected child abuse at the time.

Impacts of proposal

Both regulatory options are expected to result in familiarisation costs. The department estimates that new statutory guidance would take each affected professional 10 minutes to read. The department expects this to affect 2.8 million professionals in both the private and public sectors across education, childcare, healthcare, the police, care homes, local authorities and probation officers. Using appropriately updated average wages for affected professionals, familiarisation is estimated at a one-off cost of around £9.7 million, of which £2.9 million is expected to fall on private sector businesses.

The department expects that a mandatory reporting duty will lead to more risk averse behaviour in professionals and may create a culture of over-reporting to avoid liability. The department has assumed an illustrative increase in referrals of 15 per cent. This would result in an ongoing increase of cost of £119 million to children's social services each year. The IA would benefit from confirmation of whether any of this cost will fall on businesses.

The department expects a 'failure to act' offence to result in a smaller increase in referrals. As such, the department has assumed an illustrative 3 per cent increase in referrals. This would result in an average increase cost of £23.9 million to children's social services each year.

The impact assessment (IA) states that there will be costs to professionals and business as a result of the time taken to make a report to social services, as well as the cost of placing additional children in foster or social care. The department has stated that it will attempt to provide a quantification of these costs following consultation; this seems reasonable. The department hopes the consultation will provide information on the expected increase in prosecutions and the nature of corporate or criminal punishment that will be applied.

Quality of submission

In response to the RPC's initial review, the department has improved the IA by extending the discussion of the risks involved in the proposals, including the risks of failing to reduce child abuse or creating an incentive against testifying in child abuse cases. The department has also improved the clarity and drafting of the objectives of the measure and has improved the assessment of the impacts on small and micro businesses. The concerns raised in the RPC's initial review, which predominantly related to the clarity of the IA and its ability to act as a standalone document (without

the associated consultation document), would have resulted in an amber rated opinion.

The department does not have a preferred option at this stage and will use the consultation to gather evidence on whether the benefits of the proposals outweigh the costs. As the effects of the current educational campaign are not yet known, at the final stage, the department would benefit from the use of evidence from the consultation to justify the rationale for intervention beyond the current baseline reforms. The department should then also provide a more robust estimate of the expected increase in referrals resulting from the options and the expected effects this will have on the social care system. For example, in the IA, the department expresses concerns that a significant increase in referrals could overwhelm the social care system. As the IA suggests that mandatory reporting could lead to an increase in referrals of cases where there is no abuse taking place, consideration of the capacity of the social care system to manage additional referrals, and the potential impact of such referrals on the ability to deal with cases of abuse, would be beneficial.

The department has provided a sufficient analysis of the costs at this stage, utilising any available evidence and explaining where additional costs may exist that are not currently quantifiable.

Small and Micro Business Assessment

The department explains that it does not wish to exempt small and micro businesses from any change in legislation, as child abuse can occur in any setting. As initially submitted, the drafting of the objectives appeared to link historic problems of reporting with larger organisations. However, following the RPC's initial review, the department has provided further evidence showing that organisational cover-up is as likely, if not more likely, in small independent businesses that are more dependent on their reputation. The department also highlights that familiarisation costs will not affect small and micro businesses disproportionately, as they are directly related to the number of employees in an organisation.

Initial departmental assessment

Classification	Qualifying regulatory provision
Equivalent annual net cost to business (EANCB)	No preferred option

Opinion: consultation stage IA
Origin: domestic
RPC reference number: RPC-3096(1)-HO
Date of implementation: unspecified

Business net present value	No preferred option
Societal net present value	No preferred option

RPC assessment

Classification	Qualifying regulatory provision
Small and micro business assessment	Sufficient
RPC rating (of IA as initially submitted)	Fit for purpose providing changes are made



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