

Mandatory Reporting Requirements for Children

One of the main differences in working with children as opposed to adults is the need for health and psychosocial providers to comply with laws and policies regulating response to the suspected or actual abuse of children. These laws and policies are often referred to as “mandatory reporting laws” and they vary in scope and practice across humanitarian settings. To appropriately comply with mandatory reporting laws, service providers must have a thorough understanding of the mandatory reporting laws in their setting. In settings where laws and systems exist, service providers should have established procedures in place for reporting suspected or actual abuse before providing services directly to children. The elements of mandatory reporting that actors should agree upon to create the safest and most effective reporting mechanisms include first answering the question: Does a mandatory reporting law or policy exist in my setting? If yes, actors should establish procedures based on answering these key questions:

- Who is required to report cases of child abuse?
- Who are the officials designated to receive such reports?
- When is the obligation to report triggered (i.e., with suspicion of abuse?)
- What information needs to be shared?
- What are the reporting regulations regarding timing and other procedures?
- How is confidentiality protected?
- What are the legal implications of not reporting?

Reporting cases of child sexual abuse

If service providers are required to report cases of child sexual abuse to local authorities and reporting systems are established and functioning, then they must follow the local protocol and clearly explain this to the client. Reporting suspected or actual cases of sexual abuse is very sensitive and the report should be handled in the safest and most discrete manner possible. Mandatory reporting in cases of child abuse is not the same thing as referring a child for immediate protection if they are in imminent danger. If a child is in imminent danger, then caseworkers should take actions to secure his/her safety (through referral to local police, protection agencies, etc.) prior to making a mandatory report to the designated mandatory reporting agencies. Once the child is safe, caseworkers should proceed with mandatory reporting procedures. Best practice for reporting cases of child sexual abuse (in settings where mandatory reporting systems function) includes:

- inclusion of protocols for maintaining the utmost discretion and confidentiality of child survivors,
- knowing the case criteria that warrant a mandatory report,
- making the verbal and/or written reports (as indicated by law) within a specified time frame (usually 24 to 48 hours),
- reporting only the minimum information needed to complete the report,
- explaining to the child and his/her caregiver what is happening and why, and
- documenting the report in the child’s case file and following up with the family and relevant authorities.

Strategies for reporting abuse while maintaining discretion and the confidentiality of child survivors and their families should be discussed and agreed upon by key actors in the field. Examples on how to best uphold discretion and confidentiality in mandatory reporting circumstances should include: agreeing with other actors on the least amount of information necessary for sharing; reporting to only one mandatory reporting entity/person; and establishing guidelines regulating how third parties store information.

Maintaining children’s best interests in mandatory reporting procedures

Mandatory reporting requirements can raise ethical and safety concerns in humanitarian settings, where governance structures often break down and laws exist in theory but not in practice. In emergency settings, where established and safe mechanisms to report child sexual abuse might not exist and where security can be unstable and dangerous, mandatory reporting can set off a chain of events that potentially exposes the child to further risk of harm, and as such it may not be in the child’s best interest to initiate a mandatory report. For example, investigators may show up to a child’s home, therefore, potentially breaching a child’s confidentiality at the family or community level (prompting retaliation). In addition, services for children may be non-existent, thus creating additional risk (e.g., separation from family, placement in institutions, or confiscation of private records). The local authorities may themselves be abusive or they may simply be ignorant of best practice procedures or guiding principles.

If these following criteria are present, even if a mandatory law exists in theory, service providers are advised to use the central guiding principle—the best interests of the child—to guide decision-making in child-centered service delivery:

- Authorities lack clear procedures and guidelines for mandatory reporting.
- The setting lacks effective protection and legal services to deal properly with a report.
- Reporting could further jeopardize a child’s safety at home or within his/her community.

If these criteria are present, service providers should follow a decision-making process that first considers the child’s safety and then the legal implications of not reporting. Supervisors should always be consulted in decision-making to determine the best course of action.

Service providers are advised to follow these steps for determining the best course of action:

Step 1

Use these questions to guide decision-making:

- Will reporting increase risk of harm for the child?
- What are the positive and negative impacts of reporting?
- What are the legal implications of not reporting?

Step 2

Consult with the program case management supervisor and/or manager to make a decision and develop an action plan.

Step 3 Document with a supervisor or manager the reasons to report the case; otherwise, document the safety and protection issues that rule out making a report.

Explaining mandatory reporting at the very beginning of care and treatment

If mandatory reporting policies and laws are in place and practiced, service providers are required to explain to the child and caregiver what their reporting responsibilities are at the beginning of services. This can be done in conjunction with the initial informed consent procedure for the services being offered (see Chapter 5 for more information on informed consent procedures).

If a mandatory report is required, service providers should share the following information with children and caregivers:

- The agency/person to which/whom the caseworker will report.
- The specific information being reported.
- How the information must be reported (written, verbal, etc.).
- The likely outcome of the report.
- The child's and family's rights in the process.

Children, particularly older children (adolescents), and caregivers should be part of the decision-making process on how to address mandatory reporting in the safest and most confidential way. This means service providers should seek and consider their opinions and ideas on how to draft the report. This does not mean the caregiver and child can decide whether or not a report is made; rather, they can help decide how and when the report is made. Service providers who are equipped with in-depth knowledge about mandatory reporting procedures will be best positioned to work with children and family clients to manage this procedure as necessary.

Service providers must be able to:

- Demonstrate an accurate understanding of the mandatory reporting laws/policies in their context.
- Analyze specific criteria to determine whether reporting is in the child's best interest, and document and report this information to supervisors and/or the child's case response team.
- Explain mandatory reporting requirements to children and caregivers at the outset of service delivery.

The most beneficial/least detrimental course of action for the child, and the least intrusive one for the family, should be employed as long as the child's safety is assured.

Reference: UNICEF IRC (2012) Caring for child survivors of sexual abuse, mandatory reporting requirements, pg 91-95