

# The Law in the UK About Reporting Child Abuse: As It Relates to Counsellors and Psychotherapists

By Juliet Grayson

This will come as a surprise to many therapists, who mistakenly think they currently have a legal duty to report 'harm to self or other'. The consultation document [‘Reporting and Acting on Child Abuse: Government Consultation’](#) provides clear verification when talking about the current child protection system in England. There is currently no general *legal* requirement on those working with children to report either known or suspected child abuse or neglect. [my italics] This clarifies that even teachers, child-minders, and those working with children, at present, do not have a legal duty to report child sexual abuse, general abuse or neglect – and nor do counsellors.

[Statutory guidance](#), however, is very clear that those who work with children and families should report to the local authority children’s social care immediately if they think a child may have been or is likely to be abused or neglected. While statutory guidance does not impose an absolute legal requirement to comply, it does require practitioners and organisations to take it into account and, if they depart from it, to have clear reasons for doing so.

This statutory guidance applies to psychotherapists and counsellors who work for the NHS, certain agencies, and all health and care professionals working in occupations that parliament has said must be regulated. This includes ‘practitioner psychologists’ who have one of the psychologists [‘protected titles’](#) that are regulated by the Health and Care Professions Council (HCPC). What this means in practice is that whilst those therapists working for the NHS, certain agencies, psychologists regulated by the HCPC have no legal requirement to report child sexual abuse. They do have a duty, under their contract of employment, to report suspected child abuse to the authorities, as stated in the [“Working Together to Safeguard Children”](#) document produced by the government. To re-iterate, this is not a legal requirement. If a therapist working in the NHS fails to report child sexual abuse that would not constitute a criminal offence, but could lead to potential disciplinary action or sacking.

## IT IS DIFFERENT FOR PSYCHOTHERAPISTS AND COUNSELLORS IN PRIVATE PRACTICE

Let’s consider a therapist or counsellor in private practice, in England and Scotland. There is no statutory regulation for psychotherapists and counsellors. Registration with UKCP, BACP or similar, is voluntary and optional. Thus a psychotherapist or counsellor in private practice is NOT bound by the statutory guidance. For them there is no current legal obligation to report child abuse to the authorities. Since they are self-employed, there is no duty under a contract of employment. This means that they have no duty to report at all, though ethically they may choose to. But it remains a choice, with no sanction for failure to report a case of child sexual abuse.

It is a different case in Northern Ireland. There, the law states that all citizens are bound to report illegal activity. There it is a criminal offence to fail to disclose any arrestable offence

to the police under Section 5(1) of the Criminal Law Act (1967). This would obviously include psychotherapists and counsellors in private practice, and would include offences against children.

Wales brought in mandatory reporting in April 2016, via section 130 of the Social Services and Well-being (Wales) Act 2014. Reporting is required when there is suspicion that a child is at risk of abuse, neglect or other harm. But this duty to report applies to [public bodies and their relevant partners](#) of a local authority and the youth offending team, namely police, ministers, probation services, NHS trust, and the Local Health Board. It would apply to a therapist who works for the NHS. It does not apply to psychotherapists and counsellors in private practice.

New laws were passed in October 2015 with respect to female genital mutilation (FGM) in England and Wales. There is now a mandatory reporting duty which requires all regulated health and social care professionals, teachers, and police in England and Wales to report 'known' cases of FGM in under 18's which they identify in the course of their professional work to the police. Regulated means people working in occupations that [Parliament has said must be regulated](#). For example, doctor, nurse, pharmacist, paramedics and includes 'practitioner psychologists' registered with HCPC. Psychotherapists working within or employed on a contract through the NHS, certain agencies, and psychologists registered with HCPC would be bound by this duty to report. The duty to report FGM does not apply to psychotherapists and counsellors in private practice.

So, to summarise. Psychotherapists and counsellors who have a private practice in England, Wales, and Scotland, have no legal requirement to report female genital mutilation, child sexual abuse, general abuse or neglect. They can decide in consultation with their supervisor. Obviously this is an ethical decision and a personal choice for each counsellor. But at present, there is no duty upon them to report and no legal requirement to report.

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NB This is an accurate representation of the law as at September 2018