

Should New Zealand introduce mandatory reporting by general practitioners of suspected child abuse? NO

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The Ministry of Social Development has released a Green Paper which considers options for how the Government could better protect and improve outcomes for vulnerable children.¹ It identifies that about 15% of New Zealand children “are at risk of not doing well” (based on data from the Christchurch and Dunedin longitudinal studies) and, within this group, there “are children who are significantly more vulnerable and at-risk of poor life outcomes such as learning and behavioural difficulties, mental and physical health problems, alcohol and drug dependency, criminal activity, imprisonment, poor education achievement and employability”.

One of the identified issues is that these children and their families/whanau often receive multiple services from many different health, social, educational and judicial providers and the information often is not shared between them. The document discusses sharing information between professionals and raises the option that it be mandatory for professionals who work with children and/or their families to report suspected cases of child abuse. The Government is seeking comments to this discussion paper by March 2012.

Mandatory reporting was also raised in the media in June 2011. At the inquest into the deaths of the Kahui twins in June 2011, Dr Patrick Kelly, a paediatrician at Starship Hospital, called for mandatory reporting by general practitioners (GPs) of suspected child abuse—a requirement in the United States and Australia, but not in New Zealand.² Dr Kelly is Clinical Director of the Auckland District Health Board team who deals with suspected child and youth abuse and neglect. Dr Kelly said that “one in 10 New Zealand children are raised in abusive households”³ and “health professionals are still not trained properly

to pick up child abuse and more manpower and more training may be the only way to stop babies like Chris and Cru Kahui from dying violently.”⁴

Dr Kelly said most GPs get a total of two hours training to deal with suspected child abuse and they should spend at least a full day on recognising and managing child abuse and neglect during their training.⁴ “Dr Kelly believes mandatory reporting would make it easier for GPs working in isolation to overcome pressure from the family not to report.”⁵

Potentially there are both benefits to, and risks from, mandatory reporting. This appeared to be an ideal topic for a *Back to Back* debate. However, after much endeavour, I have been unable to find anyone prepared to argue ‘yes’ to mandatory reporting, hence I am presenting this discussion as a personal viewpoint. Dr Kelly was quoted widely in the lay media about mandatory reporting and the inadequacy of GP training; however, unfortunately he was unable to provide comment in the time available. I therefore have had to rely on quotes from him in radio and television broadcasts and newspaper articles. Extensive enquiries through a variety of avenues failed to find any paediatrician or other expert who would write in support of mandatory reporting.

Mandatory reporting is advocated with the best of intentions, to protect children and prevent abuse continuing. Advantages of mandatory reporting include the reduction of barriers to reporting, encouragement of earlier reporting, the endorsement that child abuse is not acceptable, and giving the message that government agencies and professional groups have a responsibility to protect children. However, in my view, the risks outweigh the gains.

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Shared information

The Green Paper identifies that “vulnerable children and their families/whanau will often receive services from many different providers that will each hold some information about these children’s lives. Professionals need to know who holds what information and be able to share information with one another to create a complete picture about a child and their circumstances.”¹ Many of the children who die at the hands of a family member are known by multiple services. The Kahui twins spent six weeks in the neonatal intensive care unit at Middlemore Hospital and hospital workers regularly visited the family home. The family was well known to the Child Youth and Family service (CYF). James Whakaruru, killed at age four by his de facto stepfather, was known to child protection, police, health and education authorities.⁶ While it is likely that most professionals would support

(“poor school attendance or school performance”; “poor social skills”).⁷ The technical report⁸ underpinning the Massey best practice guidelines for the assessment and treatment of sexual abuse, funded and disseminated by the Accident Compensation Corporation,⁹ lists 103 symptoms of child sexual abuse, which include attributes such as fingernail biting or being daring, rebellious, timid, perfectionist or telling lies. There are a further 100 symptoms in adults. Presence of clusters of symptoms is said to aid diagnosis of sexual abuse. However, these are very non-specific to abuse.

These lists illustrate the difficulty in defining abuse or neglect in a child. While these may be symptoms of abuse, they may also be due to accidental injury, psychological distress from other causes, or from illness. There are many cases where a GP might see a child where possible abuse is one of a number of differential diagnoses.

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sharing of information through the integration of services and interagency communication, this should not be confused with mandatory reporting of suspected child abuse.

Determining the definition of abuse

A difficulty at the ‘grassroots’ level relates to the definition of child abuse, and the level of suspicion required to activate the legislative requirement to report suspected or potential child abuse. New Zealand’s specialist child protection training organisation, Child Matters, lists a large number of indicators of emotional (e.g. “overly compliant; too well-mannered; too neat and clean”), physical (“unexplained bruises, welts, cuts, abrasions”) and sexual (comments such as “I’ve got a secret” or “I don’t like Uncle”, or “fire lighting by boys”) abuse and neglect

Determining the level of suspicion required for notification

It is unclear just what would constitute the level of suspicion required for action. While Kelly says that GPs who know that a child is being abused are often faced with parents who pressurise them not to report,⁵ I personally doubt that this is the case. GPs currently refer to their specialist colleagues when they have concerns or need assistance in diagnosis. The requirement also to refer to the authorities (CYF and/or the Police) in these cases may be one step too far. If GPs are required to notify the authorities whenever they consider the possibility of abuse or neglect as part of their differential diagnosis, then large numbers of unfounded cases may be reported.

Effects of unfounded reporting on the child and the family

There is a lack of international evidence that mandatory reporting increases abuse detection rates,¹⁰ while it runs the risk of increased numbers of false reports with unnecessary stress and damage to the affected families. It is important not to underestimate the devastation that a false report of child abuse may cause

a family. The recognition of child abuse will always be fallible, irrespective of the system in place. Introduction of mandatory reporting in the United States in the 1980s resulted in a tenfold increase in the number of children investigated for abuse, and those shown to be “unfounded” went from 35% to 65% in one decade.¹¹ Even if abuse is later shown to be unfounded, introduction of mandatory reporting means more families will experience the trauma of the investigation process. Children are often separated from the accused parent whilst allegations are investigated, and it may be months or even years before the charges are found to be unsubstantiated. Even an acquittal in a subsequent court case may not restore normal access or relationships, since family courts may sometimes deny access on less rigorous evidence that a child may be in danger.

Former Health and Disability Commissioner Robyn Stent describes her family’s anguish after her stepdaughter was suspected of assault when a haematoma on her baby’s head developed as a result of a difficult birth. Stent says that “the Starship hospital’s child protection unit was like a police station and treated parents as guilty until proven innocent”.¹²

Effects of reporting on the patient–doctor relationship

If GPs face penalties should they fail to report suspected cases, their motivation may be their own protection rather than acting in the best interest of the child and family concerned. Moreover, the patient–doctor relationship may be the sole source of positive intervention for at-risk families, and fear of notification to the authorities might deter parents from bringing their children to the practice.

Too broad a definition of child abuse could lead to unnecessary and counterproductive reporting of minor problems that would be better dealt with by non-punitive agencies and interventions such as assistance with parenting skills. Mandatory reporting could provide a means for GPs to abrogate their responsibility for identifying psychosocial adversity in a family and then helping parents address these issues.

Effects of increased reporting on services

Existing resources to investigate and intervene in cases of reported child abuse and neglect are already inadequate. Introducing mandatory reporting of suspected child abuse by GPs is likely to completely overwhelm our services.

There is little evidence that action by GPs could have prevented the high-profile cases of child deaths such as James Whakaruru or Nia Glassie, nor the Kahui twins, at whose inquest Kelly made his public plea for mandatory reporting. The twins were well known to health and social services, hospital workers were visiting the home regularly, and the twins were not presented to a GP who then could have suspected child abuse. Mandatory reporting by GPs could not have saved these babies. While it has the aim of protecting children and preventing ongoing abuse, its introduction seems unlikely to achieve these objectives.

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