

## Section 2

# Recognition of Abuse

This section outlines the nature of child abuse, and how to recognize when a child(ren) might be at risk.

Particularly, all those who are in positions where they are in direct contact with children and young people – e.g. the clergy, paid youth workers, volunteer helpers, captains of bell towers, music group leaders – need to be familiar with this section.

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## 2.1 Introduction

Child abuse is a comprehensive term which encapsulates all the ways in which a child's physical, emotional, intellectual, spiritual and social development and health are damaged by other people. It is an abuse of relationships; a misuse of power and a betrayal of trust.

Child abuse is not new, although it was increasingly recognized, named and condemned during the course of the 20<sup>th</sup> and into the 21<sup>st</sup> century.

Child abuse affects girls and boys, babies and all young people up to the age of 18, children with learning difficulties, children with physical disabilities, and children from **any** kind of family background.

Child abuse results in a child suffering *significant harm* (see 2.6). It prevents children achieving their full potential and undermines their dignity and rights. The harm it causes will affect children both whilst it is happening and in later life. The consequences of the pain of child abuse can affect adults in their relationships and with the care of their own children. When abuse occurs within the context of the Church or by a Christian, it may affect the person's faith and spiritual development.

Child abuse is, in the main, perpetrated by an adult, male or female, who is well known to the child, often a family member. Such trusted adults can also include others in the child's community, including trusted professionals, leaders or members of a child's church.

Child abuse is also known to be perpetrated by children against other children. This is referred to as 'child on child abuse' (see 2.10). These child perpetrators will have greater power than their victims, perhaps due to age, gender, physique or ability.

Recent developments in the use of computers, the internet and mobile phone technology have drawn attention to the misuse of chat rooms, messaging services, and widespread pornography. This is a new challenge in educating and safeguarding children.

Child abuse occurs in all cultures, religions and classes. Within faith communities, harm can be caused by the inappropriate use of religious belief or practice. This can include the misuse of the authority of leadership or penitential discipline, oppressive teaching, or obtrusive healing and deliverance ministries, which may result in children experiencing physical, emotional or sexual harm. If such inappropriate behaviour becomes harmful, it should be referred for investigation in the usual way. Careful supervision and mentoring of those entrusted with the pastoral care of children should help to prevent harm occurring in this way. Other forms of spiritual abuse include the denial to children of the right to faith or the opportunity to grow in the knowledge and love of God.

Organized or multiple abuse may be defined as abuse involving one or more abusers and a number of related or non-related children or young people. The abusers may be acting in networks to abuse children or in isolation. They may use an institutional framework or position of authority or trust to recruit children for abuse. They may use children themselves to recruit other children.

***In all of these situations, it is vital that guidance is sought, and the Bishop's Child Protection Adviser is informed. See Section 3***

## 2.2 Definition of abuse

Child abuse has many forms. There are four identified categories of abuse as described in the interdepartmental government Guidelines 'Working Together to Safeguard children' 1999 – physical, emotional, sexual and neglect.

Children may suffer from one or a combination of categories of abuse. The categories are defined as follows:

### Physical abuse

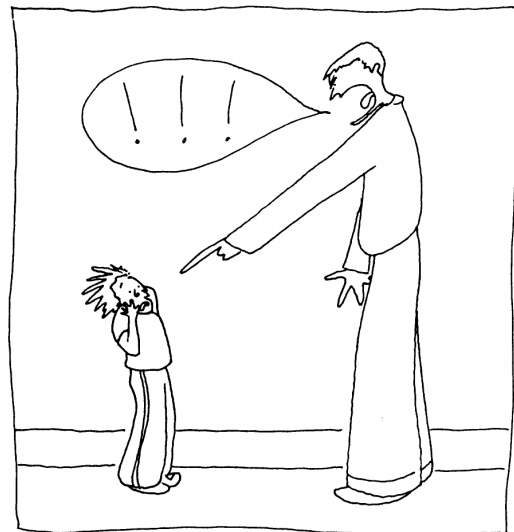
*Physical abuse may involve hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating, or otherwise causing physical harm to a child. Physical harm may also be caused when a parent or carer feigns the symptoms of, or deliberately causes ill health to a child whom they are looking after. This situation (Munchausen's syndrome by proxy) is now described as an illness induced or fabricated by carers with parenting responsibilities.*

### The impact of physical abuse

Physical abuse can lead directly to pain, injury, neurological damage, disability or – at the extreme – death. Harm may be caused both by the abuse itself, and by its taking place in the context of conflict and aggression. In turn, physical abuse has been linked to aggressive behaviour on the part of the child and to emotional, behavioural and educational difficulties. Where a child is disabled, injuries or behavioural symptoms may mistakenly be attributed to their disability rather than the abuse.

### Emotional abuse

*Emotional abuse is the persistent emotional ill-treatment of a child such as to cause severe and persistent adverse effects on the child's emotional development. It may involve conveying to children that they are worthless or unloved, inadequate, or valued only insofar as they meet the needs of another person. It may feature age or developmentally inappropriate expectations being imposed on children. It may involve causing children frequently to feel frightened or in danger, or the exploitation or corruption of children. Some level of emotional abuse is involved in all types of ill-treatment of a child, though it may occur alone.*



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### The impact of emotional abuse

There is increasing evidence that sustained emotional abuse has adverse long-term effects on children's development and on their mental health, behaviour and self esteem. It can be especially damaging in infancy. Underlying emotional abuse may be as important, if not more so, than other more visible forms of abuse. In families where the child experiences a low level of emotional warmth and a high level of criticism, negative incidents may have a more damaging impact. A dysfunctional home where there is, for example, domestic violence, or substance misuse, will have an impact on a child, even if they are not directly involved. In extreme cases, emotional abuse can lead to suicide.

## Sexual abuse

*Sexual abuse involves forcing or enticing a child or young person to take part in sexual activities, whether or not the child is aware of what is happening. The activities may involve physical contact, including penetration (e.g. rape or buggery) or non penetrative acts. They may include non-contact activities, such as involving children in looking at, or in the production of, pornographic material, or watching sexual activities, or encouraging children to behave in sexually inappropriate ways.*

### The impact of sexual abuse

Disturbed behaviour including self harm, inappropriate sexualized behaviour, sadness, depression and loss of self esteem, have all been linked to sexual abuse. In disabled children these behaviours have sometimes mistakenly been attributed to their disability. The impact of sexual abuse is believed to increase the longer abuse continues, the more extensive it is, the older the child, the extent of premeditation, and the degree of threat and coercion. Sadism and bizarre or unusual elements also affect the severity of impact. The adverse effects of sexual abuse may endure into adulthood.

The support of a non-abusive adult carer who believes the child, helps them understand the abuse, and can offer help and protection, increases a child's ability to cope. (NB this role is not to be undertaken by church people and carers without full endorsement and support from the statutory authorities.)

A proportion of adults who sexually abuse children have themselves been sexually abused as children. They may also have been exposed as children to domestic violence and discontinuity of care. However, it would be quite wrong to suggest that most children who are abused will inevitably go on to become abusers themselves.

Sexual abuse occurs in all communities in Britain, and is acceptable in none.

## Neglect

*Neglect is a persistent failure to meet a child's basic physical and/or psychological needs, likely to result in the serious impairment of the child's health or development. It may involve a parent or carer failing to provide adequate food, shelter and clothing, failing to protect a child from physical harm or danger, or the failure to ensure access to adequate medical care or treatment. It may also include neglect of, or unresponsiveness to a child's basic emotional needs.*

### The impact of neglect

Severe and/or persistent neglect of young children is associated with major impairment of growth and intellectual development, and long-term difficulties with social functioning, relationships and educational progress. Neglect can also result, in extreme cases, in death.

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## 2.3 The responsibility of the Church

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As Christians, we are called to recognize the unique status and immense worth of each child. The Children Act (1989) emphasises the place of children in society by providing "that a child's welfare is paramount".

It is the responsibility of **everyone** in a church community to take action if they have a concern about a child. Some church members, i.e. children's leaders, youth workers, members of the clergy, captains of bell towers, organists, or music group leaders will have direct contact with children, so it is more likely concerns will come to their attention. **However, this does not remove the responsibility from the rest of the congregation.**

Clergy and anyone in the church who wears robes and/or has a public position or other position of responsibility may be regarded by a child, depending on their age and understanding, as someone to trust. These people have a responsibility to work together with the whole congregation to promote the welfare of children in the church and the community.

## 2.4 Recognizing when children are troubled

It is normal for children, when they are troubled, to show this through their behaviour.

Consider these examples:

- a. *Sohail (5) is unmanageable in his Sunday children's group. He cannot concentrate, even for limited periods. He disrupts the group by running about, by pulling children's hair or knocking their crayons onto the floor. Sometimes he destroys other children's work. If a leader tries to comfort him, or tries to move him back to his seat, he struggles wildly like a trapped bird.*
- b. *Marva (7) has recently started to steal. She has twice stolen from the children's collection. At Brownies, she has taken another child's bag. She has also become very spiteful in her behaviour to other children and is clingy towards the youth leader. She used to be a friendly, open child.*
- c. *Jazz (14) has started limping badly, but refuses to say what's wrong, dismissing it as nothing. She doesn't appear to have any friends of her own age and spends many hours at different neighbours' homes, now she's started missing days off school. One day one of the neighbours sees her with a penknife and it becomes clear Jazz has been self-harming.*

A **range** of difficult behaviours is significant. A **change** of behaviour, perhaps sudden, is important to notice.

Any number of upsetting experiences, other than child abuse, may cause a child to behave in a demanding or distressed way. Most children have phases when their behaviour becomes 'naughty' for a period. We all know about the "terrible twos" and about the pains of adolescence. However, if a child stands out from a group as a 'problem', the question should be asked: "What is wrong?"

- Has there been a recent bereavement in the family?
- Is a parent seriously ill?
- Has there been a major disruption of family life - perhaps separation or divorce; a parent being made redundant; a house move or move to a new area?
- Is the child being seriously bullied at school?
- Is the child being abused by someone close?

**Signals given by children through their behaviour should not be ignored**, and especially not for reasons of politeness, reserve or caution. Nor should these signals necessarily cause great alarm.

If those who care for the child can help him or her identify the cause of distress – or if the cause is plainly obvious – steps can be taken to help. Sudden problems are easier to identify.

With children who are consistently difficult, there is a danger that they will be frozen out of clubs or Sunday activities by exasperated adults who feels defeated or have no one to consult. **Yet these children, above all, need help.**

## 2.5 Recognition of signs and symptoms



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Concerns about the wellbeing of a child may come from a number of sources:

- From the child him/herself
- From a family member or other adult
- From someone who has abused
- From someone who has been abused
- From a Teacher, Health Visitor or School Nurse

### 1. From the child him/herself

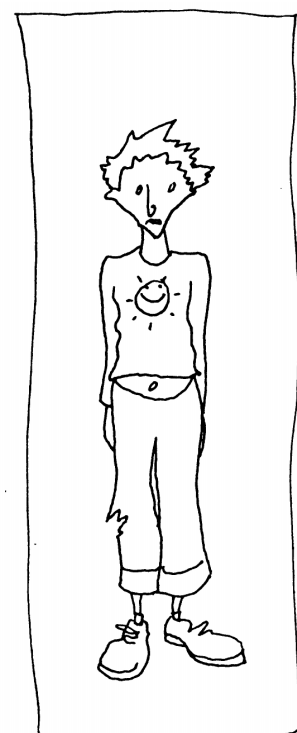
A child will give signals or indicators that something is wrong in three ways:

- **Visual**
- **Behavioural**
- **Verbal**

or a combination of these.

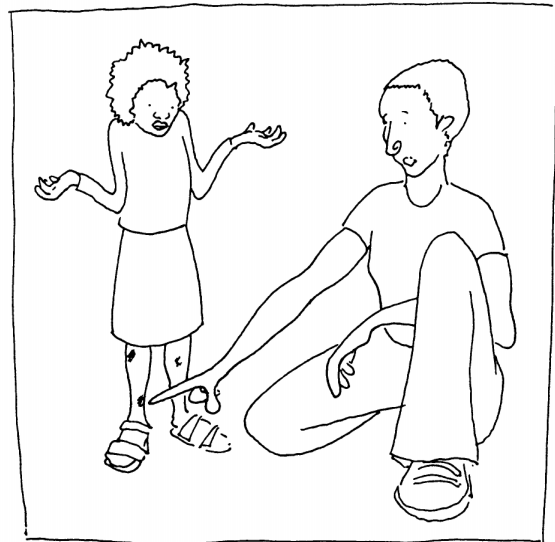
#### Visual indications:

- A child may be thin and pale, look tired and be poorly cared for – for example unwashed, shoes too tight, lack of warm clothes or always hungry.  
e.g. *Jason is 6. He is delivered to his Sunday group by a very overbearing father. He sits at the edge of the class and watches the leader fixedly. He never speaks to or plays with other children. He is poorly dressed, smells of urine and is alarmingly pale and thin. He cannot concentrate on the class, and looks terrified if spoken to by the leaders. If touched by an adult, he flinches.*
- There may be repeated signs of bruising or marks which are quite different from the usual childhood bruises and cuts; this bruising may be unexplained or untreated. For example, burn marks or pressure bruises from fingertips, or red marks round the neck.
- A leader may come across evidence of a severe beating by a strap or stick, with harsh bruising across the back, buttocks or legs, with skin broken in places.



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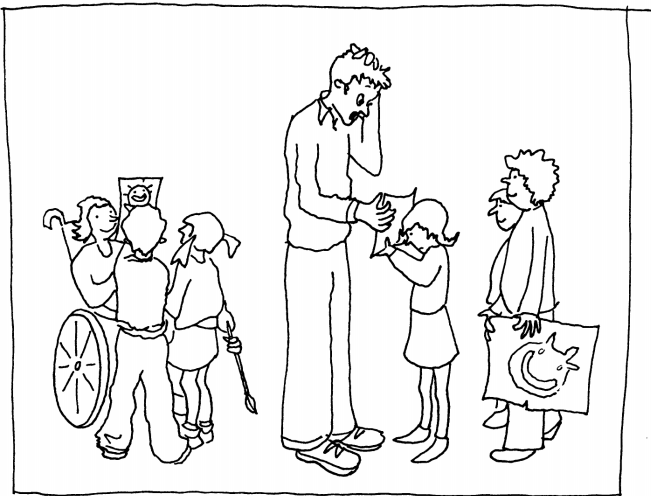
e.g. *The youth leader notices that Tracey (10) has a very red mark on her leg. When viewed closely, it is clearly a slap mark showing the shape of a hand. Tracey says she does not know how the mark got there. Two weeks later, the youth leader sees some small circular marks, which appear to be cigarette burns, on Tracey's arm. When asked about them, Tracey says that she and her younger sister were playing with some matches, and that their mother punished them. The female youth leader takes an opportunity to notice Tracey when she is changing into sports gear. There are old bruises on her back.*



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## Behavioural

- A child who has been cheerful and outgoing suddenly becomes withdrawn and depressed.
- A child who becomes naughty or disruptive. S/he may lie, steal and be destructive. Such a child is usually unpopular, and the behaviour may obscure the child's need for help.
- A child who acts out sexual behaviour of an adult kind.



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e.g. *Nafiza (3) attends the parent and toddler club. She spends a lot of time in the playhouse with little boys, and has been found several times without her pants, pretending sexual intercourse. She is generally unable to concentrate on activities, and runs wildly about, or sits in a corner sucking her thumb until her face is sore.*

- A child who appears 'frozen' and fearful, and flinches when an adult moves towards them.
- A child who draws pictures of a sexually explicit nature or of violence in the home.

## Verbal

- A child who gives inappropriate explanations for bruises or burn marks.
- A child who tells you about being asked to keep a secret, or drops hints about abuse.
- A child who confides a story of physical or sexual abuse – perhaps about a parent or carer well known to the confidante. Such a story must be taken seriously. The telling of such a story is an indicator of problems, whether or not all the details of the story are credible. It is very important that the listener does not appear shocked, and listens carefully.

- A child who uses sexually explicit language and behaviour which would not normally be expected at their age and stage of development.

***All of these signs and symptoms need to be taken very seriously. See section 3 for guidance on how to take action.***

## **2. From a family member or other adult**

A family member, a parent or other carer, an older sibling or a friend of the family, may want to confide. Recognizing possible verbal signals in these circumstances is important, e.g.

The adult may:

- speak about a serious story of abuse or domestic violence involving a spouse, partner, or family friend;
- give clues about major worries in the family, but have difficulty in being explicit;
- present a scenario of another person who needs help; "I have a friend who has a big problem can you advise me about how to help her?"

Or you may have cause for concern because of the behaviour or appearance of an adult:

- A parent or carer may be seen losing his/her temper with the child violently. The outbursts may be associated with other problems in a parent's life, which indicates that the person is suffering considerable stress.
- A parent or carer who is known to misuse alcohol or drugs.
- A mother who shows signs of physical abuse, e.g. bruised eyes, marks on her neck, scratches on her face, or other bruising.

## **3. From an abuser**

*"People who abuse children are practised in deception, and are unlikely to disclose such practices."*

However, there may be occasions when, due to their particular role, a priest is told that someone has abused a child. The House of Bishops' Policy 2004 provides the following guidance:

It is possible that relevant information may be disclosed in the particular context of confession. Canon law constrains a priest from disclosing details of any crime or offence which is revealed in the course of formal confession: however, there is some doubt as to whether this absolute privilege is consistent with the civil law. Where a penitent's own behaviour is at issue, the priest should not only urge the person to report it to the police or social services, but may judge it necessary to withhold absolution until this evidence of repentance has been demonstrated.

It is in everyone's interest to recognize the distinction between what is heard in formal confession (however this might take place) which is made for the quieting of conscience and intended to lead to absolution, and disclosures made in pastoral situations. For this reason, it is helpful if confessions are normally heard at advertised times, or by other arrangement, or in some way differentiated from a general pastoral conversation or a meeting for spiritual direction.

For further information about reporting alleged abuse and issues of confidentiality, refer to Appendix 3 of the House of Bishops' Policy 2004, which can be found at section 2.11 of this Policy.

If a situation arises which causes concern or there is any possibility that a child or young person continues to be at risk, contact the BCPA via the Bishop's Office for advice.

#### 4. From an adult survivor

Adult survivors tend to recall abuse in fragments, as in recovery from amnesia. This is because the memory of abuse is often suppressed. In talking about their abuse, an adult may appear:

- Hesitant
- Confused
- Vague
- Apologetic
- to think it was their fault
- to expect no-one to believe them

Some concern has been expressed about the accuracy of memories of abuse which adults have recovered during therapy. The phrase 'False Memory Syndrome' has been coined in this respect. It is erroneous in this context to use the word 'syndrome', which usually refers to a well-documented group of signs and symptoms associated with a particular condition. There may have been a very small number of cases of 'false memories'. However, these examples should not be used to dismiss the reports of people who say they were abused.

#### Disclosures of historical abuse

In the course of their work, many ministers and those offering pastoral support in the Church will find themselves hearing disclosures from adults of abuse that happened to them when they were children.

There is no single, correct procedure for dealing with a disclosure of historical abuse by an adult. The wishes of the person disclosing abuse will be very important. For some adults, just being able to talk to a trusted person about their experiences can be a powerful healing event. The pastoral care of the person who has been abused should be a priority. A referral to the police will not always be necessary unless the individual wishes to report the offence; however, they should be encouraged and supported to do so.

There is no **legal** obligation on a person being told of abuse to report it to the Authorities.

Adults do need to be made aware, however, that if the alleged abuser is still working with or caring for children, or has regular contact with children even in a family situation, **a referral to the social services will be made by the person hearing the complaint or the Bishop's Child Protection Adviser, who must in any case be informed.** As adults, we are all responsible for trying to ensure the safety of children and young people. We should be aware that people who have committed sexual abuse against someone years ago could well be abusing children today.

**Concerns about the safety of children, therefore, can come to light in a number of ways. They should be taken seriously and the procedures in Section 3 followed.**

## 2.6 Significant harm

The Children Act 1989 introduced the concept of significant harm as the threshold that justifies compulsory intervention in family life in the best interest of children. The local authority is under a duty to make enquiries, or cause enquiries to be made, where it has reasonable cause to suspect that a child is suffering, or likely to suffer significant harm (s.47). A court may only make a court order (committing the child to the care of the local authority) or a supervision order (putting the child under the supervision of a social worker or probation officer) in respect of a child if it is satisfied that:

- The child is suffering, or is likely to suffer, significant harm; **and**

- That the harm or likelihood of harm is attributable to a lack of adequate parental care or control. (s 31)

There are no absolute criteria on which to rely when judging what constitutes significant harm. Consideration of the severity of ill-treatment may include the degree and extent of physical harm, the duration and frequency of abuse and neglect, and the extent of premeditation, degree of threat and coercion, sadism, and bizarre or unusual elements in child sexual abuse. Each of these elements has been associated with more severe effects on the child, and/or relatively greater difficulty in helping the child overcome the adverse impact of ill-treatment. Sometimes a single traumatic event may constitute significant harm, for example a violent assault, suffocation or poisoning. More often, significant harm is a compilation of significant events, both acute and longstanding, which interrupt, change or damage the child's physical and psychological development. Some children live in family and social circumstances where their health and development are neglected. For them, it is the corrosiveness of long-term emotional, physical or sexual abuse that causes impairment to the extent of constituting significant harm. In each case, it is necessary to consider any ill-treatment alongside the family's strengths and supports.

*House of Bishops' Policy 2004*

### **Sources of stress for children and families**

To quote one Area Child Protection Committee's procedures:

*Many families under great stress nonetheless manage to bring up their children in a warm, loving and supportive environment, in which the children's needs are met and they are safe from harm. Sources of stress within families, however, have a negative impact on a child's health, development, and well-being, either directly, or because they affect the capacity of parents to respond to their child's needs. This is particularly the case when there is no other significant adult who is able to respond to the child's needs. Research tells us that such sources of stress may include the following:*

- *Domestic abuse: prolonged and/or regular exposure to domestic abuse can have a serious impact on a child's development and emotional well-being, despite the best efforts of the abused parent/carer to protect the child.*
- *Mental illness of parent or carer: NB mental illness in a parent or carer does not necessarily have an adverse impact on child, but (for professional helpers) it is essential always to assess its implications for any children involved in the family.*
- *Parental drug and/or alcohol misuse*
- *Substance misuse by adults and young people*
- *Racism and racial harassment*

## **2.7 Abuse and children with a disability**

"Disability" is defined as a major physical impairment, severe medical illness, and/or a moderate to severe learning disability with an ongoing high level of dependency on others for personal care and the meeting of other basic needs.

The available evidence (for example from the NSPCC) suggests that children with a disability are at a significant risk of abuse and neglect. The presence of multiple disabilities appears to increase this risk. Parents of such children may well experience multiple stresses. Children with a disability may be especially vulnerable to abuse, because they may:

- have fewer social contacts than other children;
- receive intimate personal care and contact from a larger number of carers;

- have an impaired capacity to challenge abuse;
- have communication difficulties, which may make it difficult to tell others what is happening;
- be inhibited about complaining because of a fear of losing services;
- be especially vulnerable to bullying and/or intimidation;
- be more vulnerable than other children to abuse by their peers.

## **2.8 Abuse and black minority ethnic children**

Children from all cultures are subject to abuse and neglect. All children have a right to grow up in safety. Cultural factors neither explain nor condone acts of omission or commission which place a child at risk of significant harm. Professionals should guard against myths and stereotypes – both positive and negative – of people who are deemed to be different.

The Victoria Climbié Enquiry, 2002, noted that one of the factors which contributed to failures in ensuring Victoria's protection was the effect of the assumptions made by people about cultural child practices and norms, some of which were clearly without foundation. Another was the fear of being accused of racism.

Anxiety about being accused of racism should not prevent the necessary action being taken to safeguard a child.

Although racism can cause significant harm, it is not, in itself, a category of abuse. It can be a contributory factor in all four categories of abuse. Institutional racism operates within the field of child welfare, evidenced by the disproportionate number of black children in care and the lack of take-up of family support services. Any intervention in accordance with these procedures should take account of the impact of racism on a particular child and his or her family, and should avoid reinforcing racism through stereotyping (see Section 1.2.10 for a definition of racism).

## **2.9 Self-Harm**

Self-harm is when someone deliberately hurts or injures themselves. This can take a number of forms including:

- cutting or burning - the most common forms of self-harm
- taking overdoses of tablets or medicines
- punching themselves
- throwing their bodies against something
- pulling out their hair or eyelashes
- scratching, picking or tearing at their skin causing sores and scarring
- inhaling or sniffing harmful substances

- swallowing things that are not edible
- inserting objects into their bodies

Some young people self-harm on a regular basis while others do it just once or a few times. For some people it is part of coping with a specific problem and they stop once the problem is resolved. Other people self-harm for years whenever certain kinds of pressures or feelings arise.

Young people who self-harm have often had very difficult or painful experiences or relationships. These may include:

- Bullying or discrimination.
- Losing someone close to them such as a parent, brother, sister or friend.
- Lack of love and affection or neglect by parents or carers.
- Physical or sexual abuse.
- A serious illness that affects the way they feel about themselves.

Other young people may start to self-harm as a way of dealing with the problems and pressures of everyday life. Pressure can come from family, school and peer groups to conform or to perform well (for example in getting good exam results). Young people can be made to feel angry, frustrated or bad about themselves if they cannot live up to other people's expectations.

Young people who self-harm may have low self-esteem. For some this is linked to poor body image, eating disorders, or drug misuse. Understanding why young people self-harm involves knowing as much as possible about their lives and lifestyles.

Peer pressures may occasionally be the most important reason for self-harm. Young people may find themselves among friends or other groups who self-harm and may be encouraged or pressurised to do the same.

Extreme feelings of fear, anger, guilt, shame, helplessness, self-hatred, unhappiness, depression or despair can build up over time. When these feelings become unbearable, self-harm can be a way of dealing with them.

There are many reasons why young people may find it difficult to ask for help:

- Not knowing who to ask.
- Not knowing that confidential help is available.
- Feeling too ashamed or bad about themselves.
- Being worried that who they tell will be shocked or angry with them.
- Being frightened of being labelled mad, suicidal or attention-seeking.
- Bad or negative experiences in the past may make it difficult for them to trust people.
- If they have been abused or neglected they may feel they are better off dealing with things on their own.
- Feeling worried they may be forced into treatment they don't want.

It may be difficult to understand why someone would deliberately harm themselves but it's important to remember that many people do things that are harmful from time to time. Some people smoke, drink too much, or overeat. While these things may be thought to be more socially acceptable than self-harm they can also be harmful ways of dealing with stress and the pressures of everyday life.

People who self-harm are experiencing extreme distress. They are not usually attention-seeking or mentally ill. They are in a situation where they have lost control over what is happening to them and have no other means of expressing their feelings or asking for help. They need compassion, support and understanding.

If you think a child is self-harming, and if it is safe to do so, you should raise this concern with the child's parent or carer. You should share your concerns with the incumbent and children/young people's leader. You should consider discussing your concerns with the Social Services Department covering the area where the child lives, in which case the BCPA should be informed.

## **2.10 Children and young people who abuse**

To quote one Area Child Protection Committee's procedures:

### **Bullying**

*Bullying may be defined as deliberately harmful behaviour, usually repeated over a period of time, where it is difficult for those bullied to defend themselves. It can take many forms, but the main types are physical (e.g. hitting, kicking, theft), verbal (e.g. racist or homophobic remarks, threats, name-calling), and emotional (e.g. isolating an individual from the activities and social acceptance of their peer group). The damage inflicted by bullying can frequently be underestimated. It can cause considerable distress to children, to the extent that it affects their health and development or, at the extreme, causes them significant harm (including self harm).*

**All settings in which children are provided with services or are living away from home should have in place rigorously enforced anti-bullying strategies.**

### **When child protection procedures should be considered**

*There may be some instances of bullying where parents/carers or professionals are aware of the problem, but unable or unwilling to protect the child. In these circumstances, the BCPA should be contacted for advice about the possible need for a referral of both victim and perpetrator to social services for an initial assessment.*

*In addition, there may be circumstances where a child is clearly suffering, or likely to suffer, significant harm, and/or an offence may have been committed.*

The child, in these circumstances, should be referred to the police or social services (see Section 3).

### **Children and young people who sexually harm others**

*Children and young people who abuse others should be held responsible for their abusive behaviour, whilst being identified and responded to in a way that meets their needs as well as protecting others. Such children are likely to have considerable needs. Evidence suggests that they may have suffered considerable disruption in their lives, been exposed to violence within the family, may have witnessed or been subject to physical or sexual abuse, have problems in their educational development or may have committed offences.*

*Work with adult abusers has shown that many of them began committing abusive acts during childhood or adolescence, and that significant numbers of them have been subjected to abuse themselves. Early intervention with children and young people may therefore play an important part in protecting the public, by preventing the continuation or escalation of abusive behaviour*

## **Action**

Please refer to Section 3.

## **2.11 Confidentiality and reporting alleged abuse – House of Bishops' Policy 2004**

Many people, both clergy and lay, are concerned about the reporting of alleged abuse. This is especially likely to be the case where someone has received information that amounts to an allegation of abuse, but has not been given consent to pass that information to anybody else. This appendix outlines the issues, but it should not be forgotten that those facing this difficult situation can and should seek advice from the Diocesan Child Protection Adviser and/or the Diocesan Registrar on the course of action to be taken. The Social Services Departments and Police can also be approached for guidance without the need to divulge personal details.

The revised government guidance on the Children Act 1989, *Working Together to Safeguard Children (1999)*<sup>1</sup>, states:

If someone believes that a child may be suffering, or be at risk of suffering significant harm, then s/he should always refer his or her concerns to the local authority social services department.....While professionals [and others] should seek, in general, to discuss any concerns with the family and, where possible, seek their agreement to making referrals to social services, **this should only be done where such discussion agreement-seeking will not place a child at increased risk of significant harm.**

Failure to refer could endanger a child's life or wellbeing and also compromise the Church's commitment to creating a safe environment. Responsible and informed judgement must be exercised.

Sharing information can raise some difficult questions when matters of pastoral confidence are involved, and it is essential that all Church members should understand both the general principles of confidentiality and the circumstances in which confidentiality should not be regarded as absolute. This is particularly important because there is not at present in the UK any mandatory responsibility to disclose information about suspected child abuse to the statutory agencies. Society, however, increasingly acknowledges a moral responsibility to do so where a child may be at risk of serious harm. The House of Bishops expects those with concerns about a child to consider the matter of disclosure very carefully, taking seriously the public interest in safeguarding a child's welfare and having a proper regard for the needs and rights of all those involved.

### **General duty of confidentiality**

Both law and sound morals impose a general duty not to pass on information which has been received in the clear expectation that it will be treated in confidence. That duty is not absolute, however, and the courts will not intervene to restrain disclosure where (a) the information relates to a crime or other serious misconduct and (b) disclosure is in the public interest. **Thus, where a child is judged to be at risk of significant harm, usually it will be legally possible, appropriate and highly desirable to disclose relevant information to the public authorities for the sake of protecting children.**

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<sup>1</sup> Working Together to Safeguard Children 1999 section 5.6

If such information has been received in confidence, the person giving the information should in the first instance be encouraged to disclose it to the authorities him or herself. Alternatively, the person receiving the disclosure should ask permission to pass the information on. If this request is denied it might still be possible to pass the information to a statutory body. The latest Government guidance *What to do if you are worried a child is being abused* (2003) gives helpful advice in its appendix on information sharing. It states:-

### **Disclosure in the absence of consent<sup>2</sup>**

The law recognizes that disclosure of confidential information without consent or a court order may be justified in the public interest to prevent harm to others.

The key factor in deciding whether or not to disclose confidential information is **proportionality**: is the proposed disclosure a proportionate response to the need to protect the welfare of the child? The amount of confidential information disclosed, and the number of people to whom it is disclosed, should be no more than is strictly necessary to meet the public interest in protecting the health and well-being of a child. The more sensitive the information is, the greater the child-focused need must be to justify disclosure and the greater the need to ensure that only those professionals who have to be informed receive the material.

### **Confession**

It is possible that relevant information may be disclosed in the particular context of confession. Canon law constrains a priest from disclosing details of any crime or offence which is revealed in the course of formal confession: however, there is some doubt as to whether this absolute privilege is consistent with the civil law.<sup>3</sup> Where a penitent's own behaviour is at issue, the priest should not only urge the person to report it to the police or social services, but may judge it necessary to withhold absolution until this evidence of repentance has been demonstrated.

It is in everyone's interest to recognize the distinction between what is heard in formal confession (however this might take place) which is made for the quieting of conscience and intended to lead to absolution, and disclosures made in pastoral situations. For this reason, it is helpful if confessions are normally heard at advertised times, or by other arrangement, or in some way differentiated from a general pastoral conversation or a meeting for spiritual direction.

### **Relevant legislation**

Legislation designed to safeguard the private lives of individuals has been framed to take account of the overriding need to protect the wider community, including children, against crime and serious misconduct. Nevertheless, it is important to be aware of the legal obligations which apply to those who hold sensitive information about others.

### **Data protection**

Information which relates to an individual's sexual life or to the commission or alleged commission of an offence is treated as sensitive personal data for the purposes of the Data Protection Act 1998. Although disclosure of such data to a third party without the explicit consent of the data subject is generally prohibited by the Act, there are specific exceptions which allow disclosure without consent where necessary in the interests of detecting or preventing crime<sup>4</sup> or when seeking legal advice.<sup>5</sup> The Act also prohibits the disclosure of information which identifies a third party (such as a victim or informant) without that person's consent, unless disclosure is reasonable in all the circumstances.

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<sup>2</sup> What to do if you're worried a child is being abused" 2003 Appendix 3, section 10 and 11

<sup>3</sup> This, and other issues relating to confidentiality, are given detailed consideration by the Legal Advisory Commission in its opinion entitled "The Clergy and Confidentiality" (May 2002), to be published in the forthcoming edition of *Legal Opinions concerning the Church of England*.

<sup>4</sup> Data Protection Act 1998, Section 29

<sup>5</sup> Data Protection Act 1998, Section 35

## Human rights

The Human Rights Act 1998 incorporated into UK law the European Convention on Human Rights, so that it is now unlawful for a public authority to act in contravention of a Convention right.

What constitutes a 'public authority' for the purposes of the 1998 Act is a developing area of the law. The most recent judicial opinion<sup>6</sup> suggests that (except in cases such as the conduct of a marriage where the minister can be said to be exercising a governmental function in a broad sense) a person carrying out duties within the Church of England which are simply part of the mission of the Church (such as pastoral care) is not acting as a public authority. However, this is an area on which advice should be sought from the diocesan registrar in any particular case.

Article 8 of the Convention provides that everyone has the right to respect for his private and family life, his home and his correspondence, and that a public authority may only interfere with this right where such interference is lawful and necessary for certain purposes. The most relevant of those in the child protection context are the prevention of disorder or crime, the protection of health or morals, and the protection of the rights and freedoms of others. In any circumstances where Article 8 applies to a public body, there is a judgement to be made as to whether, on balance, an interference with that right by a public authority can be justified. Where allegations of abuse are concerned, the potential harm that might result from not reporting such allegations will be a relevant factor.

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<sup>6</sup> The judgement of the House of Lords in *Parochial Church council of Aston Cantlow and Wilmcote with Billesley, Warwickshire v Wallbank and another* delivered on 26<sup>th</sup> June 2003