Children First

National Guidance for the Protection and Welfare of Children

Children First

National Guidance for the Protection and Welfare of Children

DEPARTMENT OF CHILDREN AND YOUTH AFFAIRS
2017

This edition of *Children First: National Guidance for the Protection and Welfare of Children* replaces previous editions and should be the only one in use. It is intended for use by the general public, mandated persons and other professionals whose work brings them into contact with children and also by staff and volunteers of organisations providing services to children. Social workers and staff of Tusla – Child and Family Agency, should note that the *Child Protection and Welfare Practice Handbook* is the reference point for all practice detail.

Copyright © Minister for Children and Youth Affairs, 2017
Department of Children and Youth Affairs
43–49 Mespil Road
Dublin 4
D04 YP52
Ireland

Tel: +353 (0)1 647 3000
Email: contact@dcya.gov.ie
Web: www.dcya.gov.ie

Published by Government Publications, Dublin

ISBN 978-1-4064-2954-1

The Department of Children and Youth Affairs should be acknowledged in all references to this publication.

For rights of translation or reproduction, please contact the Department of Children and Youth Affairs.

CONTENTS

Minister's Foreword iv

Chapter 1: Introduction and Use of this *Guidance* 1
- Overview of child welfare and protection 2
- Children First Act 2015 3
- Status of this *Guidance* 3
- How to use this *Guidance* 4

Chapter 2: Child Abuse – What is It? How do I recognise it? How do I report it? 5
- Aim of chapter 6
- Reasonable grounds for concern 6
- Types of child abuse and how they may be recognised 7
  - Neglect 7
  - Emotional abuse 8
  - Physical abuse 9
  - Sexual abuse 10
  - Circumstances which may make children more vulnerable to harm 11
    - Bullying 12
- Reporting a concern about a child 13
  - Who to contact 13
  - What information to include 13
  - Can a report be made anonymously? 14
  - What happens after a report is received by Tusla? 15
  - Concerns about an adult who may pose a risk to children 15
  - Relevant legislation 16
    - Child Care Act 1991 16
    - Protections for Persons Reporting Child Abuse Act 1998 16
    - Criminal Justice Act 2006 16
    - Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 17
    - National Vetting Bureau (Children and Vulnerable Persons) Acts 2012–2016 17
    - Children First Act 2015 17
    - Criminal Law (Sexual Offences) Act 2017 17

Chapter 3: Mandated Persons 18
- Aim of chapter 19
- Who are mandated persons? 19
- What are the legal obligations of a mandated person? 19

Reporting mandated concerns 20
Criteria for reporting: definitions and thresholds 20
Neglect 21
Emotional abuse/ill-treatment 21
Physical abuse 21
Sexual abuse 21
Disclosures of abuse from a child 22
Mandated persons who work with adults 22
Dealing with a retrospective allegation 23
Exemptions from requirements to report 23
Underage consensual sexual activity 23
Concerns developed outside of professional duties 24
Making a mandated report 24
Joint reporting 25
Informing the family that a report is being made 25
Informing the employer or designated liaison person 25
Consequences of non-reporting 26
Mandated assisting 27
Sharing information 27
Protection from civil liability 28
Advice, information and training for mandated persons 28

Chapter 4: Responsibilities of Organisations Dealing with Children and Young People 29
Aim of chapter 30
Statutory obligations of relevant services 30
What are relevant services under the Act? 31
Risk assessment 32
Understanding what risks to assess 32
Carrying out a risk assessment 33
Child Safeguarding Statement 34
What the Child Safeguarding Statement should contain 34
Making the Child Safeguarding Statement available 34
Register of non-compliance 35
Safeguarding best practice procedures for all organisations 35
Appointing a designated liaison person 35
Role of designated liaison person 36
Designated liaison persons and mandated persons 36
Reporting concerns about a child 36
Vetting 37
Advice, information and training for staff and volunteers of organisations 38

Chapter 5: Dealing with Concerns about a Child – Tusla and An Garda Síochána 39

Aim of chapter 40
Tusla - Child and Family Agency 40
An Garda Síochána 41
Joint working between Tusla and An Garda Síochána 42
Joint specialist interviews 42
What happens after a concern is reported? 43
Receipt of concerns 43
Initial checks 44
Social work assessment of a concern 44
Concerns which require family support services 45
Concerns which require child protection intervention 45
Child Protection Notification System 46
Child Protection Plan 46
Sharing information with a third party 47
Rights of parents 47
Rights of children 48
Feedback to persons reporting concerns 48
Complaints procedure 48

Chapter 6: Oversight of Child Welfare and Protection 49

Aim of chapter 50
Government Departments 50
Department of Children and Youth Affairs 50
Children First Interdepartmental Implementation Group 50
Oversight groups 51
Sectoral implementation plans 51
Advice, information and training 52
Other relevant bodies 52
Health Information and Quality Authority 52
Ombudsman for Children's Office 53
National Review Panel 53

Appendices 54

Appendix 1: Schedule of Relevant Services under the Children First Act 2015 55
Appendix 2: Schedule of Mandated Persons under the Children First Act 2015 57
Appendix 3: Sexual Offences as set out in the Children First Act 2015 [as amended by the Criminal Law (Sexual Offences) Act 2017] 59
Appendix 4: Pathway of a Child Welfare or Protection Concern Reported to Tusla 60

MINISTER'S FOREWORD

It is everyone's responsibility to protect children and young people and to do our best to keep them safe. Despite our best efforts, we cannot, unfortunately, prevent all abuse from taking place. What we can do is work together to help make our children's lives safer.

It is important that families, communities and professionals can recognise when a child or young person is being harmed and that they know what action to take in response. This revised version of *Children First: National Guidance for the Protection and Welfare of Children* describes the four main types of abuse and sets out the steps which should be taken to ensure that the child or young person is protected from harm. It has been updated to include new information about the Children First Act 2015 and it includes specific information for the professionals and organisations that now have legal obligations to keep children safe. The *Guidance* also outlines the roles of the main statutory bodies involved in child welfare and protection: Tusla - Child and Family Agency, and An Garda Síochána. It contains details of how to report a concern about a child and what happens once the report is received by Tusla.

The revised *Guidance* is just one of the resources available to assist with child protection. For the first time, a free, online child welfare and protection training module is now available for everyone. This e-learning module has been designed by Tusla to complement the legislation and this *Guidance*. This, and a number of additional child protection and safeguarding information resources, can be found on the Tusla website, **www.tusla.ie**.

While we must strive to protect children and young people from harm, it is equally important that we do not restrict them from taking all of the opportunities that life has to offer. It is in all our interests to see our children reaching their full potential, and I want to encourage and support people who work with children to continue to do so. The responsibility to protect children and young people can be daunting, but I hope that families, communities and those who work with children will find this revised *Guidance* a practical and supportive reference resource.

Dr. Katherine Zappone, TD

Minister for Children and Youth Affairs

CHAPTER 1

Introduction and Use of this *Guidance*

OVERVIEW OF CHILD WELFARE AND PROTECTION

Parents and guardians have the primary responsibility for the care and protection of their children. However, at times they may need support and assistance from the State in carrying out their responsibilities as a parent. In some cases, for a range of reasons, parents are not able to provide proper care and protection for their children, and more intensive assistance is needed to keep the children safe from harm. Interventions by the State aim to build on the existing strengths of the family. Support is offered to help the family to overcome any difficulties and to ensure that the child is safe. With assistance, most families can make the necessary changes to ensure the safety of their child.

While the role of parents is to protect their children, society also has a duty to promote the welfare and safety of children. Everyone should be alert to the possibility that children with whom they are in contact may be being abused or at risk of being abused. The wider community of relatives, friends, neighbours, professionals and voluntary workers are well placed to be aware of a child's welfare. They should know how to recognise and respond to the possibility of abuse or neglect, so as to ensure that the most effective steps are taken to protect a child and to contribute to the ongoing safety of children. The process of identifying and reporting suspected child abuse and neglect can be difficult for both the person who makes the report and the families involved. However, a failure to act when abuse or neglect is occurring can result in children being left in harmful situations, and could potentially result in long term damage to their well-being. Acting sensitively but responsibly is a universal duty.

Child welfare and protection policy is based on a legal framework provided primarily by the Child Care Act 1991 and the Children First Act 2015. The policy and practice that applies in this area is outlined in this *Guidance*. There are a number of key principles of child protection and welfare that inform both Government policy and best practice for those dealing with children. These are:

- The safety and welfare of children is everyone's responsibility
- The best interests of the child should be paramount
- The overall aim in all dealings with children and their families is to intervene proportionately to support families to keep children safe from harm
- Interventions by the State should build on existing strengths and protective factors in the family
- Early intervention is key to getting better outcomes. Where it is necessary for the State to intervene to keep children safe, the minimum intervention necessary should be used
- Children should only be separated from parents/guardians when alternative means of protecting them have been exhausted
- Children have a right to be heard, listened to and taken seriously. Taking account of their age and understanding, they should be consulted and involved in all matters and decisions that may affect their lives
- Parents/guardians have a right to respect, and should be consulted and involved in matters that concern their family

- A proper balance must be struck between protecting children and respecting the rights and needs of parents/guardians and families. Where there is conflict, the child's welfare must come first
- Child protection is a multiagency, multidisciplinary activity. Agencies and professionals must work together in the interests of children

Children First: National Guidelines for the Protection and Welfare of Children, first published in 1999 and revised in 2011, has been the national guidance for social workers, professionals, organisations and individuals to help keep children safe and protected from harm. This edition of the *Guidance* is intended to assist you, whether you are a member of the public, a professional, employee or volunteer, in identifying and reporting child abuse and neglect, and to deal effectively with these concerns. It also sets out the statutory responsibilities for mandated persons and organisations under the Children First Act 2015 and provides information about how the statutory agencies respond to reports of concerns made about children.

CHILDREN FIRST ACT 2015

The need to revise the *Children First: National Guidance for the Protection and Welfare of Children* came about because of the enactment of the Children First Act 2015. This Act places a number of statutory obligations on specific groups of professionals and on particular organisations providing services to children. This revised *Guidance* includes information on the statutory obligations for those individuals and organisations under the Act. It also sets out the best practice procedures that should be in place for all organisations providing services to children.

Through the provisions of the Act, it is intended to:

- Raise awareness of child abuse and neglect
- Provide for mandatory reporting by key professionals
- Improve child safeguarding arrangements in organisations providing services to children
- Provide for cooperation and information-sharing between agencies when Tusla – Child and Family Agency, is undertaking child protection assessments

The legislation also contains a provision that removes the defence of reasonable chastisement in relation to corporal punishment as part of court proceedings.

STATUS OF THIS *GUIDANCE*

This *Guidance* is issued under section 6 of the Children First Act 2015. This edition of the *Guidance* replaces previous editions and should be the only one in use. It is intended that the Children First Act 2015 will operate side-by-side with the non-statutory best practice outlined in this *Guidance*.

HOW TO USE THIS *GUIDANCE*

Previous editions of the *Guidance* served as a reference document on practice detail for child protection social workers. With the establishment of a single body, Tusla - Child and Family Agency, in January 2014, the procedures for Tusla staff dealing with children became a matter for Tusla. The *Child Protection and Welfare Practice Handbook* is a practice resource aimed at social work practitioners in Tusla to support best practice in frontline child protection and welfare work. The Practice Handbook sets out the key issues in the areas of recognising abuse, responding to referrals, risk factors, assessment, planning and intervention. While this *Guidance* provides an overview of the role of Tusla, social work practitioners and Tusla staff should consult the Practice Handbook for detailed practice advice and guidance on the various elements of child protection and welfare work.

The focus of this *Guidance* is to help a general audience recognise child abuse and report a reasonable concern about a child's welfare or protection. It also contains specific information about the statutory responsibilities of individuals who are mandated to report child protection concerns and of organisations that provide relevant services to children.

In this *Guidance*, 'a child' means a person under the age of 18 years, who is not or has not been married.

- **Chapters 1 and 2** are intended for use by **all** readers, as they outline the key messages of the *Guidance* and provide information on recognising and reporting reasonable concerns about the welfare or protection of a child.
- **Chapter 3** outlines the legal obligations that have been placed on **mandated persons** by the Children First Act 2015 and contains guidance about making a mandated report. It also provides guidance for mandated persons required to assist Tusla in an assessment of a report of a mandated concern, if asked to do so. This is known as mandated assisting.
- **Chapter 4** contains guidance for **organisations that provide services to children and young people** about their legal requirements under the Children First Act 2015. It outlines how to conduct a risk assessment and prepare a Child Safeguarding Statement. It also contains details of best practice procedures in child safeguarding that **all organisations** should consider.
- **Chapter 5** describes the roles of **Tusla** and **An Garda Síochána** as the statutory bodies with the main responsibility for child welfare and protection. It also outlines what happens after a report of a concern about a child is made to Tusla.
- **Chapter 6** identifies the roles and responsibilities of **Central Government** and other statutory organisations and structures that monitor the implementation of the Children First Act 2015 and this *Guidance*.

CHAPTER 2

Child Abuse – What is it?
How do I recognise it?
How do I report it?

AIM OF CHAPTER

This chapter is intended to be read by everyone who comes in contact with children – family, friends, neighbours, professionals and volunteers working with children. Everyone must be alert to the possibility that children they are in contact with may be experiencing abuse or neglect. This chapter describes the four main types of abuse and outlines how abuse and neglect can be recognised. It also provides guidance on how you can report a concern to Tusla - Child and Family Agency.

Section 3 of the Child Care Act 1991 places a statutory responsibility on Tusla to promote the welfare of children who are not receiving adequate care and protection. Tusla has a statutory duty to respond to reports of children who are not receiving adequate care and protection. Tusla assesses the information received and the child and family's situation, and provides appropriate social work intervention and family support services. Where necessary, and as a last resort, children are received into the care of Tusla.

REASONABLE GROUNDS FOR CONCERN

You should always inform Tusla when you have **reasonable grounds for concern** that a child may have been, is being, or is at risk of being abused or neglected. If you ignore what may be symptoms of abuse, it could result in ongoing harm to the child. It is not necessary for you to prove that abuse has occurred to report a concern to Tusla. All that is required is that you have reasonable grounds for concern. It is Tusla's role to assess concerns that are reported to it. If you report a concern, you can be assured that your information will be carefully considered with any other information available and a child protection assessment will be carried out where sufficient risk is identified.

Reasonable grounds for a child protection or welfare concern include:

- Evidence, for example an injury or behaviour, that is consistent with abuse and is unlikely to have been caused in any other way
- Any concern about possible sexual abuse
- Consistent signs that a child is suffering from emotional or physical neglect
- A child saying or indicating by other means that he or she has been abused
- Admission or indication by an adult or a child of an alleged abuse they committed
- An account from a person who saw the child being abused

Guidance for mandated persons on the thresholds at which, or above which, they have a statutory obligation to report the concern under the Children First Act 2015 can be found in Chapter 3 of this *Guidance*.

The guiding principles on reporting child abuse or neglect may be summarised as follows:

1. The safety and well-being of the child must take priority over concerns about adults against whom an allegation may be made
2. Reports of concerns should be made without delay to Tusla

If you think a child is in immediate danger and you cannot contact Tusla, you should contact the Gardaí without delay.

TYPES OF CHILD ABUSE AND HOW THEY MAY BE RECOGNISED

In this *Guidance*, 'a child' means a person under the age of 18 years, who is not or has not been married.

Child abuse can be categorised into four different types: neglect, emotional abuse, physical abuse and sexual abuse. A child may be subjected to one or more forms of abuse at any given time. Abuse and neglect can occur within the family, in the community or in an institutional setting. The abuser may be someone known to the child or a stranger, and can be an adult or another child. In a situation where abuse is alleged to have been carried out by another child, you should consider it a child welfare and protection issue for both children and you should follow child protection procedures for both the victim and the alleged abuser.

The important factor in deciding whether the behaviour is abuse or neglect is the impact of that behaviour on the child rather than the intention of the parent/carer.

The definitions of neglect and abuse presented in this section are not legal definitions. They are intended to describe ways in which a child might experience abuse and how this abuse may be recognised.

Neglect

Child neglect is the most frequently reported category of abuse, both in Ireland and internationally. Ongoing chronic neglect is recognised as being extremely harmful to the development and well-being of the child and may have serious long-term negative consequences.

Neglect occurs when a child does not receive adequate care or supervision to the extent that the child is harmed physically or developmentally. It is generally defined in terms of an omission of care, where a child's health,

development or welfare is impaired by being deprived of food, clothing, warmth, hygiene, medical care, intellectual stimulation or supervision and safety. Emotional neglect may also lead to the child having attachment difficulties. The extent of the damage to the child's health, development or welfare is influenced by a range of factors. These factors include the extent, if any, of positive influence in the child's life as well as the age of the child and the frequency and consistency of neglect.

Neglect is associated with poverty but not necessarily caused by it. It is strongly linked to parental substance misuse, domestic violence, and parental mental illness and disability.

A reasonable concern for the child's welfare would exist when neglect becomes typical of the relationship between the child and the parent or carer. This may become apparent where you see the child over a period of time, or the effects of neglect may be obvious based on having seen the child once.

The following are features of child neglect:

- Children being left alone without adequate care and supervision
- Malnourishment, lacking food, unsuitable food or erratic feeding
- Non-organic failure to thrive, i.e. a child not gaining weight due not only to malnutrition but also emotional deprivation
- Failure to provide adequate care for the child's medical and developmental needs, including intellectual stimulation
- Inadequate living conditions – unhygienic conditions, environmental issues, including lack of adequate heating and furniture
- Lack of adequate clothing
- Inattention to basic hygiene
- Lack of protection and exposure to danger, including moral danger, or lack of supervision appropriate to the child's age
- Persistent failure to attend school
- Abandonment or desertion

Emotional abuse

Emotional abuse is the systematic emotional or psychological ill-treatment of a child as part of the overall relationship between a caregiver and a child. Once-off and occasional difficulties between a parent/carer and child are not considered emotional abuse. Abuse occurs when a child's basic need for attention, affection, approval, consistency and security are not met, due to incapacity or indifference from their parent or caregiver. Emotional abuse can also occur when adults responsible for taking care of children are unaware of and unable (for a range of reasons) to meet their children's emotional and developmental needs. Emotional abuse is not easy to recognise because the effects are not easily seen.

A reasonable concern for the child's welfare would exist when the behaviour becomes typical of the relationship between the child and the parent or carer.

Emotional abuse may be seen in some of the following ways:

- Rejection
- Lack of comfort and love
- Lack of attachment
- Lack of proper stimulation (e.g. fun and play)
- Lack of continuity of care (e.g. frequent moves, particularly unplanned)
- Continuous lack of praise and encouragement
- Persistent criticism, sarcasm, hostility or blaming of the child
- Bullying
- Conditional parenting in which care or affection of a child depends on his or her behaviours or actions
- Extreme overprotectiveness
- Inappropriate non-physical punishment (e.g. locking child in bedroom)
- Ongoing family conflicts and family violence
- Seriously inappropriate expectations of a child relative to his/her age and stage of development

There may be no physical signs of emotional abuse unless it occurs with another type of abuse. A child may show signs of emotional abuse through their actions or emotions in several ways. These include insecure attachment, unhappiness, low self-esteem, educational and developmental underachievement, risk taking and aggressive behaviour.

It should be noted that no one indicator is conclusive evidence of emotional abuse. Emotional abuse is more likely to impact negatively on a child where it is persistent over time and where there is a lack of other protective factors.

Physical abuse

Physical abuse is when someone deliberately hurts a child physically or puts them at risk of being physically hurt. It may occur as a single incident or as a pattern of incidents. A reasonable concern exists where the child's health and/or development is, may be, or has been damaged as a result of suspected physical abuse.

Physical abuse can include the following:

- Physical punishment
- Beating, slapping, hitting or kicking
- Pushing, shaking or throwing
- Pinching, biting, choking or hair-pulling
- Use of excessive force in handling
- Deliberate poisoning
- Suffocation
- Fabricated/induced illness
- Female genital mutilation

The Children First Act 2015 includes a provision that abolishes the common law defence of reasonable chastisement in court proceedings. This defence could previously be invoked by a parent or other person in authority who physically

disciplined a child. The change in the legislation now means that in prosecutions relating to assault or physical cruelty, a person who administers such punishment to a child cannot rely on the defence of reasonable chastisement in the legal proceedings. The result of this is that the protections in law relating to assault now apply to a child in the same way as they do to an adult.

Sexual abuse

Sexual abuse occurs when a child is used by another person for his or her gratification or arousal, or for that of others. It includes the child being involved in sexual acts (masturbation, fondling, oral or penetrative sex) or exposing the child to sexual activity directly or through pornography.

Child sexual abuse may cover a wide spectrum of abusive activities. It rarely involves just a single incident and in some instances occurs over a number of years. Child sexual abuse most commonly happens within the family, including older siblings and extended family members.

Cases of sexual abuse mainly come to light through disclosure by the child or his or her siblings/friends, from the suspicions of an adult, and/or by physical symptoms.

It should be remembered that sexual activity involving a young person may be sexual abuse even if the young person concerned does not themselves recognise it as abusive.

Examples of child sexual abuse include the following:

- Any sexual act intentionally performed in the presence of a child
- An invitation to sexual touching or intentional touching or molesting of a child's body whether by a person or object for the purpose of sexual arousal or gratification
- Masturbation in the presence of a child or the involvement of a child in an act of masturbation
- Sexual intercourse with a child, whether oral, vaginal or anal
- Sexual exploitation of a child, which includes:
  - Inviting, inducing or coercing a child to engage in prostitution or the production of child pornography [for example, exhibition, modelling or posing for the purpose of sexual arousal, gratification or sexual act, including its recording (on film, videotape or other media) or the manipulation, for those purposes, of an image by computer or other means]
  - Inviting, coercing or inducing a child to participate in, or to observe, any sexual, indecent or obscene act
  - Showing sexually explicit material to children, which is often a feature of the 'grooming' process by perpetrators of abuse
- Exposing a child to inappropriate or abusive material through information and communication technology
- Consensual sexual activity involving an adult and an underage person

An Garda Síochána will deal with any criminal aspects of a sexual abuse case under the relevant criminal justice legislation. The prosecution of a sexual offence against a child will be considered within the wider objective of child welfare and protection. The safety of the child is paramount and at no stage should a child's safety be compromised because of concern for the integrity of a criminal investigation.

In relation to child sexual abuse, it should be noted that in criminal law the age of consent to sexual intercourse is 17 years for both boys and girls. Any sexual relationship where one or both parties are under the age of 17 is illegal. However, it may not necessarily be regarded as child sexual abuse. Details on exemptions for mandated reporting of certain cases of underage consensual sexual activity can be found in Chapter 3 of this *Guidance*.

Circumstances which may make children more vulnerable to harm

If you are dealing with children, you need to be alert to the possibility that a welfare or protection concern may arise in relation to children you come in contact with. A child needs to have someone they can trust in order to feel able to disclose abuse they may be experiencing. They need to know that they will be believed and will get the help they need. Without these things, they may be vulnerable to continuing abuse.

Some children may be more vulnerable to abuse than others. Also, there may be particular times or circumstances when a child may be more vulnerable to abuse in their lives. In particular, children with disabilities, children with communication difficulties, children in care or living away from home, or children with a parent or parents with problems in their own lives may be more susceptible to harm.

The following list is intended to help you identify the range of issues in a child's life that may place them at greater risk of abuse or neglect. **It is important for you to remember that the presence of any of these factors does not necessarily mean that a child in those circumstances or settings is being abused.**

- **Parent or carer factors:**
  - Drug and alcohol misuse
  - Addiction, including gambling
  - Mental health issues
  - Parental disability issues, including learning or intellectual disability
  - Conflictual relationships
  - Domestic violence
  - Adolescent parents
- **Child factors:**
  - Age
  - Gender
  - Sexuality
  - Disability
  - Mental health issues, including self-harm and suicide
  - Communication difficulties
  - Trafficked/Exploited
  - Previous abuse
  - Young carer

- **Community factors:**
  - Cultural, ethnic, religious or faith-based norms in the family or community which may not meet the standards of child welfare or protection required in this jurisdiction
  - Culture-specific practices, including:
    - Female genital mutilation
    - Forced marriage
    - Honour-based violence
    - Radicalisation
- **Environmental factors:**
  - Housing issues
  - Children who are out of home and not living with their parents, whether temporarily or permanently
  - Poverty/Begging
  - Bullying
  - Internet and social media-related concerns
- **Poor motivation or willingness of parents/guardians to engage:**
  - Non-attendance at appointments
  - Lack of insight or understanding of how the child is being affected
  - Lack of understanding about what needs to happen to bring about change
  - Avoidance of contact and reluctance to work with services
  - Inability or unwillingness to comply with agreed plans

You should consider these factors as part of being alert to the possibility that a child may be at risk of suffering abuse and in bringing reasonable concerns to the attention of Tusla.

BULLYING

It is recognised that bullying affects the lives of an increasing number of children and can be the cause of genuine concerns about a child's welfare.

Bullying can be defined as repeated aggression – whether it is verbal, psychological or physical – that is conducted by an individual or group against others. It is behaviour that is intentionally aggravating and intimidating, and occurs mainly among children in social environments such as schools. It includes behaviours such as physical aggression, cyberbullying, damage to property, intimidation, isolation/exclusion, name calling, malicious gossip and extortion. Bullying can also take the form of abuse based on gender identity, sexual preference, race, ethnicity and religious factors. With developments in modern technology, children can also be the victims of non-contact bullying, via mobile phones, the internet and other personal devices.

While bullying can happen to any child, some may be more vulnerable. These include: children with disabilities or special educational needs; those from ethnic minority and migrant groups; from the Traveller community; lesbian, gay, bisexual or transgender (LGBT) children and those perceived to be LGBT; and children of minority religious faiths.

There can be an increased vulnerability to bullying among children with special educational needs. This is particularly so among those who do not understand social cues and/or have difficulty communicating. Some children with complex needs may lack understanding of social situations and therefore trust everyone implicitly. Such children may be more vulnerable because they do not have the same social skills or capacity as others to recognise and defend themselves against bullying behaviour.

Bullying in schools is a particular problem due to the fact that children spend a significant portion of their time there and are in large social groups. In the first instance, the school authorities are responsible for dealing with such bullying. School management boards must have a code of behaviour and an anti-bullying policy in place. If you are a staff member of a school, you should also be aware of your school's anti-bullying policy and of the relevant guidelines on how it is handled.

In cases of serious instances of bullying where the behaviour is regarded as possibly abusive, you may need to make a referral to Tusla and/or An Garda Síochána.

REPORTING A CONCERN ABOUT A CHILD

Who to contact

You should always inform Tusla if you have **reasonable grounds for concern** that a child may have been, is being, or is at risk of being abused or neglected. You can report your concern in person, by telephone or in writing — including by email — to the local social work duty service in the area where the child lives. You can find contact details for the Tusla social work teams on the Tusla website (**www.tusla.ie**).

If you are concerned about a child but unsure whether you should report it to Tusla, you may find it useful to contact Tusla to informally discuss your concern. This provides an opportunity to discuss the query in general and to decide whether a formal report of the concern to Tusla is appropriate at this stage. If the concern is below the threshold for reporting, Tusla may be able to provide advice in terms of keeping an eye on the child and other services that may be more suitable to meeting the needs of the child and/or family.

What information to include

To help Tusla staff assess your reasonable concern, they need as much information as possible. You should provide as much relevant information as you can about the child, his/her home circumstances and the grounds for concern. These could include:

- The child's name, address and age
- Names and addresses of parents or guardians
- Names, if known, of who is allegedly harming the child or not caring for them appropriately

- A detailed account of your grounds for concern (e.g. details of the allegation, dates of incidents, and description of injuries)
- Names of other children in the household
- Name of school the child attends
- Your name, contact details and relationship to the child

You should give as much information as possible to social workers at an early stage so that they can do a full check of their records. For instance, they can see if the child and/or a sibling have been the subject of a previous referral, or if an adult in the household had previous contact with the child protection services. It also helps social workers to prioritise cases for attention, as they are not in a position to respond immediately to all cases. However, they will always respond where a child is in immediate danger or at high risk of harm. It will also help Tusla to decide if another service would be more appropriate to help meet the needs of the child, i.e. a community or family support service rather than a social work service.

If you are a mandated person, you should read Chapter 3 of this *Guidance* for details about your responsibilities under the Children First Act 2015 for reporting mandated concerns and how to make the report.

If you have a concern about a child, you should make a decision as to whether the concern meets the threshold for a mandated report under the Act or not. If you are satisfied that this threshold has been reached, you should clearly identify on the report that it is a mandated report made under the Children First Act 2015. Concerns that do not reach the threshold for mandated reporting should still be reported under this *Guidance*, if a reasonable concern about the welfare or protection of a child exists.

Can a report be made anonymously?

While it is possible to report a concern without giving your name, it may make it difficult for Tusla to assess your concern. All information that you provide will be dealt with in a professional manner. While Tusla cannot guarantee confidentiality, in general it will not reveal the names of members of the public who report suspected child abuse without their permission.

Remember, if you are a mandated person, you cannot submit a report of a mandated concern anonymously, as to do so will mean you are not complying with your obligations under the Act.

What happens after a report is received by Tusla?

Tusla has the statutory responsibility to assess all reports of child welfare and protection concerns. Assessments are carried out by Tusla social workers. If concerns are found after the initial checks, further evaluation involving a detailed examination of the child and family's circumstances will follow. If concerns about a child's welfare are found, but do not involve a child protection issue, then the family may be referred to community or family support services. If no concerns are found, then the information gathered is recorded and kept on a confidential file where it will be examined if further concerns or more information comes to light.

Further details on the role of Tusla and how reports of concerns are dealt with are set out in Chapter 5.

If you make a report about a child, Tusla will normally acknowledge it, and may contact you for further information, if necessary. It is understandable that you would like to be assured that the matter is being followed up. However, to protect the privacy of the child and family, it may not be possible for Tusla to inform you of the progress or outcome of Tusla's contact with the child or family, unless you are involved in discussions around family support or child protection plans. If you continue to have concerns about the child, or if additional information comes to light, you should contact Tusla.

Concerns about an adult who may pose a risk to children

While in most cases concerns for the welfare or safety of a child develop from your own observation or knowledge of the child or their family, sometimes concerns arise about whether an adult may pose a risk to children, even if there is no specific child named in relation to the concern. For example, based on known or suspected past behaviour, a concern could exist about the risk an individual may pose to children with whom they may have contact. You should report any such reasonable concerns to Tusla, who will try to establish whether or not any child is currently at risk from the individual in question.

While Tusla will make every effort to examine such cases, it is a very complex area involving the accused's constitutional rights to their good name, privacy and the right to earn a living, as well as the requirements of natural justice. Tusla must work within the Constitution, the law, the legal system and the demands of natural justice to balance the conflicting rights of those involved. This may limit how much feedback Tusla can provide to you on the progress or outcome of the case. Tusla's examination can be greatly improved if the alleged victim feels able to cooperate with Tusla in its assessment or investigation.

Relevant legislation

There are a number of key pieces of legislation that relate to child welfare and protection. The information here gives a brief overview of relevant legislation. It is not intended as legal opinion or advice and, if in doubt, you should consult the original legislation.

CHILD CARE ACT 1991

This is the key piece of legislation which regulates child care policy in Ireland. Under this Act, Tulsa has a statutory responsibility to promote the welfare of children who are not receiving adequate care and protection. If it is found that a child is not receiving adequate care and protection, Tusla has a duty to take appropriate action to promote the welfare of the child. This may include supporting families in need of assistance in providing care and protection to their children. The Child Care Act also sets out the statutory framework for taking children into care, if necessary.

PROTECTIONS FOR PERSONS REPORTING CHILD ABUSE ACT 1998

This Act protects you if you make a report of suspected child abuse to designated officers of Tusla, the Health Service Executive (HSE) or to members of the Gardaí as long as the report is made in good faith and is not malicious. Designated officers also include persons authorised by the Chief Executive Officer of Tusla to receive and acknowledge reports of mandated concerns about a child from mandated persons under the Children First Act 2015.

This legal protection means that even if you report a case of suspected child abuse and it proves unfounded, a plaintiff who took an action would have to prove that you had not acted reasonably and in good faith in making the report. If you make a report in good faith and in the child's best interests, you may also be protected under common law by the defence of qualified privilege.

You can find the full list of persons in Tusla and the HSE who are designated officers under the 1998 Act, on the website of each agency (**www.tusla.ie** and **www.hse.ie**).

CRIMINAL JUSTICE ACT 2006

Section 176 of this Act created an offence of reckless endangerment of children. This offence may be committed by a person who has authority or control over a child or abuser who intentionally or recklessly endangers a child by:

1. Causing or permitting the child to be placed or left in a situation that creates a substantial risk to the child of being a victim of serious harm or sexual abuse; or
2. Failing to take reasonable steps to protect a child from such a risk while knowing that the child is in such a situation.

CRIMINAL JUSTICE (WITHHOLDING OF INFORMATION ON OFFENCES AGAINST CHILDREN AND VULNERABLE PERSONS) ACT 2012

Under this Act, it is a criminal offence to withhold information about a serious offence, including a sexual offence, against a person under 18 years or a vulnerable person. The offence arises where a person knows or believes that a specified offence has been committed against a child or vulnerable person and he or she has information which would help arrest, prosecute or convict another person for that offence, but fails without reasonable excuse to disclose that information, as soon as it is practicable to do so, to a member of An Garda Síochána.

The provisions of the Withholding legislation are **in addition** to any reporting requirements under the Children First Act 2015.

NATIONAL VETTING BUREAU (CHILDREN AND VULNERABLE PERSONS) ACTS 2012–2016

Under these Acts, it is compulsory for employers to obtain vetting disclosures in relation to anyone who is carrying out relevant work with children or vulnerable adults. The Acts create offences and penalties for persons who fail to comply with their provisions. Statutory obligations on employers in relation to Garda vetting requirements for persons working with children and vulnerable adults are set out in the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012–2016.

CHILDREN FIRST ACT 2015

The Children First Act 2015 is an important addition to the child welfare and protection system as it will help to ensure that child protection concerns are brought to the attention of Tusla without delay.

The Act provides for mandatory reporting of child welfare and protection concerns by key professionals; comprehensive risk assessment and planning for a strong organisational culture of safeguarding in all services provided to children; a provision for a register of non-compliance; and the statutory underpinning of the existing Children First Interdepartmental Implementation Group which promotes and oversees cross-sectoral implementation and compliance with Children First.

CRIMINAL LAW (SEXUAL OFFENCES) ACT 2017

This Act addresses the sexual exploitation of children and targets those who engage in this criminal activity. It creates offences relating to the obtaining or providing of children for the purposes of sexual exploitation. It also creates offences of the types of activity which may occur during the early stages of the predatory process prior to the actual exploitation of a child, for example, using modern technology to prey on children and making arrangements to meet with a child where the intention is to sexually exploit the child. The Act also recognises the existence of underage, consensual peer relationships where any sexual activity falls within strictly defined age limits and the relationship is not intimidatory or exploitative.

CHAPTER 3

Mandated Persons

AIM OF CHAPTER

The Children First Act 2015 places a legal obligation on certain people, many of whom are professionals, to report child protection concerns at or above a defined threshold to Tusla - Child and Family Agency. These mandated persons must also assist Tusla, on request, in its assessment of child protection concerns about children who have been the subject of a mandated report. The purpose of this chapter is to identify mandated persons and to help them fulfil their statutory obligations.

The chapter focuses on the legal obligations of mandated persons under the Act. It should be read with Chapter 2 of this *Guidance*, which sets out the non-statutory best practice for all persons, including mandated persons, to report reasonable concerns about a child to Tusla.

WHO ARE MANDATED PERSONS?

Mandated persons are people who have contact with children and/or families and who, because of their qualifications, training and/or employment role, are in a key position to help protect children from harm. Mandated persons include professionals working with children in the education, health, justice, youth and childcare sectors. Certain professionals who may not work directly with children, such as those in adult counselling or psychiatry, are also mandated persons. The list also includes registered foster carers and members of the clergy or pastoral care workers of a church or other religious community.

You should consult the full list of people who are classified as mandated persons under the Act in **Appendix 2** to establish if you are a mandated person.

WHAT ARE THE LEGAL OBLIGATIONS OF A MANDATED PERSON?

Mandated persons have two main legal obligations under the Children First Act 2015. These are:

1. To report the harm of children above a defined threshold to Tusla;
2. To assist Tusla, if requested, in assessing a concern which has been the subject of a mandated report.

Section 14(1) of the Children First Act 2015 states:

'...where a mandated person knows, believes or has reasonable grounds to suspect, on the basis of information that he or she has received, acquired or becomes aware of in the course of his or her employment or profession as such a mandated person, that a child–

(a) has been harmed,
(b) is being harmed, or
(c) is at risk of being harmed,

he or she shall, as soon as practicable, report that knowledge, belief or suspicion, as the case may be, to the Agency.'

Section 14(2) of the Children First Act 2015 also places obligations on mandated persons to report any disclosures made by a child:

'Where a child believes that he or she–

(a) has been harmed,
(b) is being harmed, or
(c) is at risk of being harmed,

and discloses this belief to a mandated person in the course of a mandated person's employment or profession as such a person, the mandated person shall, ... as soon as practicable, report that disclosure to the Agency.'

Section 2 of the Children First Act 2015 defines harm as follows:

'harm means in relation to a child–

(a) assault, ill-treatment or neglect of the child in a manner that seriously affects, or is likely to seriously affect the child's health, development or welfare, or,
(b) sexual abuse of the child.'

REPORTING MANDATED CONCERNS

Criteria for reporting: definitions and thresholds

As a mandated person, under the legislation you are required to report any knowledge, belief or reasonable suspicion that a child has been harmed, is being harmed, or is at risk of being harmed. The Act defines harm as assault, ill-treatment, neglect or sexual abuse, and covers single and multiple instances. The four types of abuse are described in Chapter 2. The threshold of harm for each category of abuse at which mandated persons have a **legal** obligation to report concerns is outlined below.

If you are in doubt about whether your concern reaches the legal definition of harm for making a mandated report, Tusla can provide advice in this regard. You can find details of who to contact to discuss your concern on the Tusla website (**www.tusla.ie**). If your concern does not reach the threshold for mandated reporting, but you feel it is a **reasonable concern** about the welfare or protection of a child, you should report it to Tusla under this *Guidance*.

NEGLECT

Neglect is defined as 'to deprive a child of adequate food, warmth, clothing, hygiene, supervision, safety or medical care'. The threshold of harm, at which you must report to Tusla under the Children First Act 2015, is reached when you know, believe or have reasonable grounds to suspect that a child's needs have been neglected, are being neglected, or are at risk of being neglected to the point where **the child's health, development or welfare have been or are being seriously affected, or are likely to be seriously affected.**

EMOTIONAL ABUSE/ILL-TREATMENT

Ill-treatment is defined as 'to abandon or cruelly treat the child, or to cause or procure or allow the child to be abandoned or cruelly treated'. Emotional abuse is covered in the definition of ill-treatment used in the Children First Act 2015.

The threshold of harm, at which you must report to Tusla under the Children First Act 2015, is reached when you know, believe or have reasonable grounds to suspect that a child has been, is being, or is at risk of being ill-treated to the point where **the child's health, development or welfare have been or are being seriously affected, or are likely to be seriously affected.**

PHYSICAL ABUSE

Physical abuse is covered in the references to assault in the Children First Act 2015. The threshold of harm, at which you must report to Tusla under the Children First Act 2015, is reached when you know, believe or have reasonable grounds to suspect that a child has been, is being, or is at risk of being assaulted and that as a result **the child's health, development or welfare have been or are being seriously affected, or are likely to be seriously affected.**

SEXUAL ABUSE

If, as a mandated person, you know, believe or have reasonable grounds to suspect that a child has been, is being, or is at risk of being sexually abused, then you must report this to Tusla under the Children First Act 2015.

Sexual abuse to be reported under the Children First Act 2015 [as amended by section 55 of the Criminal Law (Sexual Offences) Act 2017] is defined as an offence against the child, as listed in Schedule 3 of the Children First Act 2015.

A full list of relevant offences against the child which are considered sexual abuse is set out in **Appendix 3** of this *Guidance*.

As all sexual abuse falls within the category of **seriously affecting a child's health, welfare or development**, you must submit all concerns about sexual abuse as a mandated report to Tusla. There is one exception, which deals with certain consensual sexual activity between teenagers, which is outlined on page 23 of this *Guidance*.

Disclosures of abuse from a child

If, as a mandated person, you receive a disclosure of harm from a child, which is above the thresholds set out above, you must make a mandated report of the concern to Tusla. **You are not required to judge the truth of the claims or the credibility of the child**. If the concern does not meet the threshold to be reported as a mandated concern you should report it to Tusla as a reasonable concern under this *Guidance*.

If you receive a disclosure of harm from a child, you may feel reluctant to report this for a number of reasons. For example, the child may say that they do not want the disclosure to be reported, or you may take the view that the child is now safe and that the involvement of Tusla may not be desired by either the child or their family. However, you need to inform Tusla of all risks to children above the threshold, as the removal of a risk to one child does not necessarily mean that there are no other children at risk. The information contained in a disclosure may be critical to Tusla's assessment of risk to another child either now or in the future.

You should deal with disclosures of abuse sensitively and professionally. The following approach is suggested as best practice for dealing with these disclosures.

- React calmly
- Listen carefully and attentively
- Take the child seriously
- Reassure the child that they have taken the right action in talking to you
- Do not promise to keep anything secret
- Ask questions for clarification only. Do not ask leading questions
- Check back with the child that what you have heard is correct and understood
- Do not express any opinions about the alleged abuser
- Ensure that the child understands the procedures that will follow
- Make a written record of the conversation as soon as possible, in as much detail as possible
- Treat the information confidentially, subject to the requirements of this *Guidance* and legislation

Mandated persons who work with adults

If you are a professional who works with or treats persons with mental health difficulties, intellectual disability, addiction or domestic violence issues, or if you work in the probation services, you must consider the welfare and safety of

any children in that person's family and/or children in regular contact with the person. You may find yourself working with people whose health and behaviour has harmed or may harm a child. If there are concerns which meet or exceed the thresholds outlined above, then you must report them to Tusla under the Children First Act 2015. You should also refer reasonable concerns below that threshold to Tusla under this *Guidance*.

Dealing with a retrospective allegation

Some adults may disclose abuse that took place during their childhood. Such disclosures may come to light when an adult attends counselling, or is being treated for a psychiatric or health problem. If you are, for example, a counsellor or health professional, and you receive a disclosure from a client that they were abused as a child, you should report this information to Tusla, as the alleged abuser may pose a current risk to children.

If, as a mandated person, you provide counselling, it is recommended that you let your clients know, before the counselling starts, that if any child protection issues arise and the alleged perpetrator is identifiable, you must pass the information on to Tusla. If your client does not feel able to participate in any investigation, Tusla may be seriously constrained in their ability to respond to the retrospective allegation.

The reporting requirements under the Children First Act 2015 apply only to information that you, as a mandated person, received or became aware of since the Act came into force, whether the harm occurred before or after that point. However, if you have a reasonable concern about past abuse, where information came to your attention before the Act and there is a possible continuing risk to children, you should report it to Tusla under this *Guidance*.

Exemptions from requirements to report

UNDERAGE CONSENSUAL SEXUAL ACTIVITY

Under the Criminal Law (Sexual Offences) Act 2006 the legal age of consent is 17 years. While a sexual relationship where one or both parties is under 17 years of age is illegal, when making a mandated report to Tusla, it might not be regarded as child sexual abuse.

There are certain exemptions from reporting underage consensual sexual activity under section 14(3) of the Children First Act 2015. If you are satisfied that **all** of the following criteria are met, you are not required to make a report to Tusla:

- The young person(s) concerned are between 15 and 17 years old
- The age difference between them is not more than 24 months
- There is no material difference in their maturity or capacity to consent
- The relationship between the people engaged in the sexual activity does not involve intimidation or exploitation of either person
- The young persons concerned state clearly that they do not want any information about the activity to be disclosed to Tusla

In effect, this means that if **all** of the above criteria are met, you as a mandated person do not have to report consensual sexual activity between older teenagers as sexual abuse to Tusla.

All persons, including mandated persons, must uphold the key principle that the welfare of the child is paramount and if you have any concerns, even where all the above criteria are met, you may make a report to Tusla.

CONCERNS DEVELOPED OUTSIDE OF PROFESSIONAL DUTIES

The legal obligation to report under the Act applies only to information that you acquire in the course of your professional work or employment. It does not apply to information you acquire outside your work, or information given to you on the basis of a personal rather than a professional relationship. While the legal obligation to report only arises for employment or professional duties, you should comply with the requirement of this *Guidance* to report all reasonable concerns to Tusla.

MAKING A MANDATED REPORT

Section 14 of the Children First Act 2015 requires mandated persons to report a mandated concern to Tusla 'as soon as practicable'. You should submit a report of a mandated concern to Tusla using the required report form, on which you should indicate that you are a mandated person and that your report is about a mandated concern. You should include as much relevant information as possible in the report as this will aid effective and early intervention for the child and may reduce the likelihood of Tusla needing to contact you for further information. You can find the report form and contact details on the Tusla website (**www.tusla.ie**).

The Children First Act 2015 requires the CEO of Tusla to appoint authorised persons to receive mandated reports. A mandated person who makes a report to an authorised person is protected from civil liability under the Protections for Persons Reporting Child Abuse Act 1998. The mandated report form can either be posted or submitted electronically to Tusla. You can find details of how to access relevant Tusla authorised staff on the Tusla website. Authorised persons are obliged to acknowledge in writing all mandated reports they receive.

If you feel the concern may require urgent intervention to make the child safe, section 14(7) of the Children First Act 2015 allows you to alert Tusla of the concern in advance of submitting a written report. You must then submit a mandated report to Tusla on the report form within three days.

Under no circumstances should a child be left in a situation that exposes him or her to harm or risk of harm pending intervention by Tusla. If you think the child is in immediate danger and you cannot contact Tusla, you should contact the Gardaí.

You should be aware that Tusla may be unable to provide feedback to you on the progress or outcome of the case. However, the information which you have provided will be carefully considered with any other information available to Tusla, and a child protection assessment will take place if sufficient risk is identified. Further details on how Tusla deals with concerns received can be found in Chapter 5 of this *Guidance*.

You are not required to report the same concern more than once. However, if you become aware of any additional information, a further report should be made to Tusla. In addition, you are not required to make a report where the sole basis for your knowledge, belief or suspicion of harm is as a result of becoming aware that another mandated person has made a report to Tusla about the child.

Joint reporting

As a mandated person, you may make a report jointly with any other person, whether that person is also a mandated person or not. For example, this could arise in situations where a child is admitted to the hospital emergency department and could be seen by a number of health professionals, or in a school where the teacher, the special needs assistant (SNA) and the principal all have concerns about the same child and wish to make a joint report to Tusla.

Informing the family that a report is being made

The Children First Act 2015 does not require you to inform the family that a report under the legislation is being made to Tusla. However, it is good practice to tell the family that a report is being made and the reasons for the decision.

It is not necessary to inform the family that a report is being made if by doing so the child will be placed at further risk or where the family's knowledge of the report could impair Tusla's ability to carry out a risk assessment. Also, you do not need to inform the family if you reasonably believe that by doing so it may place you at risk of harm from the family.

Informing the employer or designated liaison person

As part of their child protection reporting procedures or internal human resources (HR) policy, employers may require mandated persons to inform them if a mandated report has been made and to provide a copy of the report. You should be familiar with your employer's procedures and follow them.

Also, many organisations providing services to children have a designated liaison person, who acts as a resource to any staff member who has a child protection concern. Designated liaison persons are responsible for ensuring that reporting procedures are followed correctly and promptly and they act as liaison person with other agencies. Further details on child safeguarding procedures for organisations are set out in Chapter 4 of this *Guidance*.

As a mandated person, you have a statutory obligation to report concerns of harm which meet or exceed the threshold set out in the Children First Act 2015 directly to Tusla. However, there is nothing in the Act to prevent you from either making a mandated report jointly with a designated liaison person or providing a copy of the mandated report you have submitted to Tusla for the information of the designated liaison person.

As a mandated person, you should be aware that the legal obligations under the Children First Act 2015 to report mandated concerns rest with you and not with the designated liaison person.

Consequences of non-reporting

The Children First Act 2015 does not impose criminal sanctions on mandated persons who fail to make a report to Tusla. However, you should be aware that there are possible consequences for a failure to report. There are a number of administrative actions that Tusla could take if, after an investigation, it emerges that you did not make a mandated report and a child was subsequently left at risk or harmed.

Tusla may:

- Make a complaint to the Fitness to Practise Committee of a regulatory body of which you are a member
- Pass information about your failure to make a report to the National Vetting Bureau of An Garda Síochána. This information could therefore be disclosed to your current or future employers when you are next vetted

In general, many employers consider a failure to report a child protection concern to be a disciplinary matter. Employers are encouraged to include references to obligations in relation to mandated reporting in codes of conduct and contracts of employment for relevant persons.

The Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 requires that any person who has information about a serious offence against a child, which may result in charges or prosecution, must report this to An Garda Síochána. Failure to report under the Act is a criminal offence under that legislation. This obligation is **in addition to** any obligations under the Children First Act 2015.

MANDATED ASSISTING

When Tusla receives a report of harm to a child, the information in the report is used to assess the risk of harm to that child, or any other child. Written reports from mandated persons should improve the quality of information available to Tusla and therefore improve the assessment process, although in some instances Tusla will need further information from the person making the report. The better the quality of the initial report, and the more comprehensive and relevant the information given at that stage, the more likely Tusla can make an early and effective decision about how to deal with the reported concern.

It is usual practice for professionals, who have ongoing contact with a child and where there is concern about possible abuse, to continue to engage with Tusla's social work team to assist in the protection of the child. To support and reinforce this practice, the Children First Act 2015 provides that all mandated persons can be asked by Tusla to provide any necessary and proportionate assistance to aid Tusla in assessing the risk to a child arising from a mandated report. You must comply with this request, regardless of who made the report. Tusla accepts the time limitations and pressures on other professionals and will use mandated assisting only when necessary and only to the extent needed in each specific case. Mandated assistance may include a request to supply further information over the phone, produce a verbal or written report or attend a meeting. You can find the *Tusla Children First – Protocol for Mandated Assisting* on the Tusla website (**www.tusla.ie**).

Tusla is committed to promoting the welfare of children. Its ability to do so is greatly improved if all professionals involved with the child work together in the child's interests. Tusla's ability to make good-quality evidence-based decisions about a child's welfare and/or protection is enhanced by cooperation and information-sharing about a child.

Sharing information

The Data Protection Acts 1988 and 2003 do not prevent the sharing of information on a reasonable and proportionate basis for the purposes of child protection. Tusla has the authority to share information concerning a child who is the subject of a risk assessment with a mandated person who has been asked to provide assistance. Tusla must only share what is necessary and proportionate in the circumstances of each individual case.

Information that Tusla shares with you, if you are assisting it to carry out an assessment, must not be shared with a third party, unless Tusla considers it appropriate and authorises in writing that the information may be shared. This is in keeping with the principles of data protection, which recognise that in certain circumstances information can be shared in the interests of child protection, but that such sharing must be necessary and proportionate.

Section 17 of the Children First Act 2015 makes it an offence for you to disclose information to a third party which has been shared by Tusla during the course of an assessment, unless Tusla has given you written authorisation to do so. If you fail to comply with this section, you may be liable to a fine or imprisonment for up to six months or both. This offence can also be applied to an organisation.

Protection from civil liability

If you are required to share information with Tusla when assisting in the assessment of risk to a child, you are protected from civil liability. Section 16(3) of the Children First Act 2015 states:

> ***'If a mandated person furnishes any information (including a report), document or thing to the Agency pursuant to a request made under subsection (1), the furnishing of that information, document or thing shall not give rise to any civil liability in contract, tort or otherwise and nor shall the information, document or thing be admissible as evidence against that person in any civil or criminal proceedings.'***

ADVICE, INFORMATION AND TRAINING FOR MANDATED PERSONS

Tusla provides information resources on Children First guidance and legislation, including an e-learning training module. This e-learning module, which is called *Introduction to Children First*, covers recognising and reporting child abuse, the role of mandated persons, including mandated assisting, and the responsibilities of organisations working with children to safeguard children using their services. Information on how you can access the e-learning module can be found on the Tusla website (**www.tusla.ie)**.

Information is also available on the Tusla website to assist your organisation if it wishes to develop its own specific Children First training (*Tusla Children First – Best Practice Principles for Organisations in Developing Children First Training Programmes*). It is the responsibility of each organisation to ensure that its staff and volunteers receive adequate and appropriate child welfare and protection training to meet their child protection obligations under the Act.

CHAPTER 4

Responsibilities of Organisations Dealing with Children and Young People

AIM OF CHAPTER

The aim of this chapter is to help all organisations working with children and young people to create a culture of safety that promotes the welfare of children and young people availing of their services. Most of these organisations will provide 'relevant services' as defined in the Children First Act 2015 and will have specific statutory obligations under the Act. This chapter will help staff and volunteers of these organisations to fulfil their statutory obligations.

The chapter also outlines best practice procedures in child safeguarding that all organisations dealing with children and young people should consider. This is in addition to any statutory obligations under the Act.

For the purpose of this chapter, the definition of children includes young people up to the age of 18.

STATUTORY OBLIGATIONS OF RELEVANT SERVICES

One of the main objectives of the Children First Act 2015 is to ensure that your organisation keeps children safe from harm while availing of your service. The legislation and this *Guidance* relate to the obligations of relevant services to prevent, as far as practicable, deliberate harm or abuse to the children availing of their services. While it is not possible to remove all risk, your organisation should put in place policies and procedures to manage and reduce risk to the greatest possible extent.

The Act places specific obligations on organisations which provide services to children and young people, including the requirement to:

- Keep children **safe from harm** while they are using your service
- Carry out a **risk assessment** to identify whether a child or young person could be harmed while receiving your services
- Develop a **Child Safeguarding Statement** that outlines the policies and procedures which are in place to manage the risks that have been identified
- Appoint a **relevant person** to be the first point of contact in respect of the organisation's Child Safeguarding Statement

The legislation imposes deadlines on organisations in both carrying out a risk assessment and preparing a Child Safeguarding Statement. If your organisation is already in existence, you must complete the requirements for a risk assessment and Child Safeguarding Statement within three months of the relevant sections of the Children First Act 2015 coming into force. If your organisation is established after the Children First Act 2015 comes into force, you must comply with the requirements within three months from the date the service commenced.

The Children First Act, in section 11(4), requires providers of relevant services to have due regard to this *Guidance* and any guidelines issued by Tulsa – Child and Family Agency concerning child safeguarding statements. Any guidance issued by Tusla concerning Child Safeguarding Statements may be found on its website (**www.tusla.ie**).

What are relevant services under the Act?

The organisations that have statutory responsibilities under the Children First Act 2015 are those that provide a relevant service to children and young people.

The types of organisations and services to which the legislation applies include the following:

- Early years services
- Schools and centres of education
- Hospitals, hospices and health centres, and other centres providing physical or mental health services to children
- Residential care settings, including residential centres providing care to children with disabilities
- Special care units
- Children detention schools
- Reception or accommodation centres where children seeking asylum may be accommodated
- Domestic violence shelters where children may be accommodated
- Any work or activity which consists of inspecting services provided to a child
- Any inspection, examination or investigation undertaken by the Ombudsman for Children
- Any work or activity which involves providing treatment, therapy or counselling to a child
- Any work or activity which involves providing:
  - Educational, research, training, cultural, recreational, leisure, social or physical activities to children
  - Care or supervision of children
  - Formal consultation with, or formal participation by, a child in matters which affect his or her life
- Any work or activity which involves providing advice or guidance services to a child
- Any work or activity as a minister, priest or other person involved in the advancement of any religious belief
- Any work or activity as a driver, assistant to a driver, conductor or supervisor of children on a vehicle where children travel unaccompanied by a parent or guardian
- Any work or activity as a member of An Garda Síochána whose work involves access to, or contact with, children

You should consult the full list of organisations which are classified as relevant services under the Act to establish if your organisation is a relevant service. This list can be found in Appendix 1 of this *Guidance*.

To qualify as a relevant service under the Act, the service provider must employ at least one other person to provide that service. In effect, this means that types of activity and services provided by persons who work alone and do not employ another person (e.g. tutors who provide one-to-one tuition or childminders) are exempt under the Act. Activities which are undertaken in the course of a family or personal relationship for no commercial benefit, for example a grandparent who minds their grandchild or the person who gives the neighbour's children a lift to school, are also exempt.

Risk assessment

Under the Children First Act 2015, if your organisation is providing a relevant service, you must undertake a risk assessment. This considers the potential for harm to come to children while they are in your organisation's care. It should be noted that risk in this context is the risk of abuse and not general health and safety risk. Your organisation then uses this risk assessment to draft a Child Safeguarding Statement to outline how these risks will be managed.

A risk assessment is an exercise where your organisation examines all aspects of your service from a safeguarding perspective to establish whether there are any practices or features of your service that have the potential to put children at risk.

The risk assessment process is intended to enable your organisation to:

- Identify potential risks
- Develop policies and procedures to minimise risk by responding in a timely manner to potential risks
- Review whether adequate precautions have been taken to eliminate or reduce these risks

UNDERSTANDING WHAT RISKS TO ASSESS

Section 11(1)(a) of the Children First Act 2015 defines risk as "any potential for harm to a child while availing of the service." Section 2 of the Act defines harm as follows:

"harm means in relation to a child –

(a) Assault, ill-treatment or neglect of the child in a manner that seriously affects or is likely to seriously affect the child's health, development or welfare, or

(b) Sexual abuse of the child,

whether caused by a single act, omission or circumstance or a series or combination of acts, omissions or circumstances or otherwise."

CARRYING OUT A RISK ASSESSMENT

As part of the risk assessment process, your organisation should reflect on what specific risks arise as a result of the service you provide and how these risks can be managed. The following steps in the diagram are a guide to help your organisation consider where the potential for risk lies and how these risks can be managed.

STEP 1
Identify potential risks

- **Think about who or what might cause harm to children or young people using your service.**
- **Make sure all persons in the service, including children, are involved in this process. Different people will have different perceptions of what is a risk.**

STEP 2
Rank each risk

- **Rank each risk in terms of low, medium and high risks.**
- **To help rank each risk, consider the likelihood of the risk occuring and how serious the consequences could be.**

STEP 3
Control and manage the risks

- **Who owns the risk? Assign risk owners.**
- **What current controls are in place to reduce the risk?**
- **What future actions must be done to reduce the risk?**
- **What else do you need to do about the risk?**

STEP 4
Monitor and review

- **Are the controls effective?**
- **Are the actions effective?**

It is not possible to eliminate risk completely, but risks can be significantly reduced if they are properly managed.

After the risk assessment has been completed, organisations are required to develop a Child Safeguarding Statement that outlines the policies and procedures which are in place to manage the risks that have been identified.

Child Safeguarding Statement

The Children First Act 2015 requires organisations that are providers of relevant services to prepare a Child Safeguarding Statement. This is a written statement that specifies the service being provided and the principles and procedures to be observed in order to ensure, as far as practicable, that a child availing of the service is safe from harm. Your service should ensure that your Child Safeguarding Statement has due regard to this *Guidance* and any other child protection guidelines issued by the Minister for Children and Youth Affairs or any guidelines issued by Tusla concerning child safeguarding statements under section 11(4) of the Children First Act 2015.

WHAT THE CHILD SAFEGUARDING STATEMENT SHOULD CONTAIN

As outlined above, the Children First Act 2015 places obligations on organisations that provide relevant services to children. These obligations are:

1. To keep children safe from harm while they are using the service [section 10]
2. To carry out a risk assessment to identify whether a child or young person could be harmed which using the service [section 11(1)(a)] and
3. To develop a Child Safeguarding Statement [section 11(3)] which must include both the written risk assessment **and** the procedures that are in place to:
    - Manage any risk identified
    - Investigate an allegation against any staff member about any act, omission or circumstance in respect of a child availing of the service
    - Select and recruit staff who are suitable to work with children
    - Provide information and training to staff on child protection and safeguarding issues
    - Enable staff members, whether mandated persons or otherwise, to make a report to Tusla in accordance with the Act or any guidelines issued by the Minister for Children and Youth Affairs
    - Maintain a list of persons in the organisation who are mandated persons under the Act
    - Appoint a relevant person in the organisation for the purposes of the Act

The Child Safeguarding Statement should provide an overview of the measures that your organisation has in place to ensure that children are protected from harm. It may also refer to more detailed policies which can be made available on request. Further help on developing a Child Safeguarding Statement is available on the Tusla website (**www.tusla.ie**).

MAKING THE CHILD SAFEGUARDING STATEMENT AVAILABLE

Upon completion, you must circulate the Child Safeguarding Statement to all staff members. Your organisation must also display the Child Safeguarding Statement publicly and make it available to parents and guardians, Tusla and members of the public upon request.

The Child Safeguarding Statement must be reviewed every two years, or sooner if there has been a material change in any of the issues to which it refers.

REGISTER OF NON-COMPLIANCE

There is a provision in the Children First Act 2015 for Tusla to establish and maintain a register of non-compliance for service providers who fail to provide a copy of the Child Safeguarding Statement to Tusla when requested to do so. Under the Act, Tusla must make the register available for inspection by the public at all reasonable times at its principal office.

SAFEGUARDING BEST PRACTICE PROCEDURES FOR ALL ORGANISATIONS

All organisations that provide services to children should develop specific policies and procedures on how to create a safe environment. If your organisation provides a relevant service, as listed in Schedule 1 of the Children First Act 2015, this will be achieved by preparing and implementing your Child Safeguarding Statement. All other organisations should consider the need to have detailed policies and procedures in place on the following:

- Dealing with child protection concerns
- Reporting child protection concerns
- Working safely with children
- Recruiting and managing staff
- Child safeguarding awareness and training
- Involving parents and children
- Implementing and reviewing the safeguarding strategies

If you are an adult working on your own to provide a service to children, you should ensure that your procedures follow best practice in child protection.

Tusla has prepared additional guidance on child safeguarding and on reporting child welfare and protection concerns, which your organisation may find useful. This may be found on the Tusla website (**www.tusla.ie**).

Appointing a designated liaison person

Both public and private organisations that are providing services to children should consider appointing a designated liaison person in keeping with best practice in child safeguarding. This person will be the resource person for any staff member or volunteer who has child protection concerns and will liaise with outside agencies. The designated liaison person should be knowledgeable about child protection and should be provided with any training considered necessary to fulfil this role.

You should make the name and contact details of the designated liaison person available to all staff and volunteers working within your organisation. It may also be useful to appoint a deputy designated liaison person who will assume responsibility when the designated liaison person is not available or on leave.

ROLE OF DESIGNATED LIAISON PERSON

The designated liaison person is responsible for ensuring that reporting procedures within your organisation are followed, so that child welfare and protection concerns are referred promptly to Tusla. Details on what is a reasonable concern and how to report it to Tusla can be found in Chapter 2 of this *Guidance*. The designated liaison person should record all concerns or allegations of child abuse brought to his or her attention, and the actions taken in relation to a concern or allegation of child abuse.

If, as a designated liaison person, you decide not to report a concern to Tusla, the following steps should be taken:

- The reasons for not reporting should be recorded
- Any actions taken as a result of the concern should be recorded
- The employee or volunteer who raised the concern should be given a clear written explanation of the reasons why the concern is not being reported to Tusla
- The employee or volunteer should be advised that if they remain concerned about the situation, they are free to make a report to Tusla or An Garda Síochána

DESIGNATED LIAISON PERSONS AND MANDATED PERSONS

Some designated liaison persons will be working in organisations where mandated persons are also employed. It is important to note that the statutory obligation of mandated persons to report under the Children First Act 2015 must be discharged by the mandated person and cannot be discharged by the designated liaison person on their behalf.

If you are a mandated person and also have the role of designated liaison person in your organisation, you must fulfil the statutory obligations of a mandated person as detailed in Chapter 3. This means that if, as a designated liaison person, you are made aware of a concern about a child that meets or exceeds the thresholds of harm for mandated reporting, you have a statutory obligation to make a report to Tusla arising from your position as a mandated person.

While mandated persons have statutory obligations to report mandated concerns, they may make a report jointly with another person, whether the other person is a mandated person or not. In effect, this means that a mandated person can make a joint report with a designated liaison person.

Reporting concerns about a child

All organisations should have procedures in place for reporting any concerns about the welfare or protection of a child that arise. You should make sure the procedures are available and followed by all staff members, volunteers, and individuals undertaking work experience or internships within your organisation.

Procedures for your staff and volunteers on reporting concerns should include:

- **Seeking advice and guidance:** When to seek advice and guidance from the designated liaison person or Tusla where someone is unsure about whether or not to report a concern about a child availing of your service.
- **Reasonable grounds for concern:** The responsibility of staff and volunteers to report to Tusla using the Report Form (available on the Tusla website: **www.tusla.ie**) where reasonable grounds for concern exist. Further details on reporting reasonable concerns can be found in Chapter 2 of this *Guidance*.
- **How to report a concern:** Procedures for non-mandated and mandated persons and contact details for any designated liaison person, if applicable, within your organisation.
- **Immediate risk to a child:** The steps to be taken where an immediate risk to a child is believed to exist.
- **Recording:** Guidance on how the details of the concern and the actions taken are to be recorded.
- **Talking to parents/guardians:** The process for discussing a concern with parents/guardians before reporting and the circumstances in which this is not advised, as it may further endanger the child or the person making the report. You do not need to inform the family that a report is being made, if by doing so the child will be placed at further risk or in cases where the family's knowledge of the report could impair Tusla's ability to carry out an assessment. Also, it is not necessary to inform the family if the person making the report reasonably believes it may place them at risk of harm from the family.
- **Cases not reported to Tusla:** The process for recording both the reasons for the decision and any actions taken.
- **Information for mandated persons:** If your organisation employs mandated persons, your reporting procedure should state clearly that mandated persons must report concerns of harm above a particular threshold under the Children First Act 2015. Refer them to Chapter 3 of this *Guidance* for further information. It should also specify (a) whether mandated persons are expected to make their mandated report jointly with the designated liaison person and (b) whether mandated persons must provide a copy of their mandated report to their employer.

Vetting

Statutory obligations on employers in relation to Garda vetting requirements for persons working with children and vulnerable adults are set out in the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012–2016. Under these Acts, it is compulsory for employers to obtain vetting disclosures in relation to anyone who is carrying out relevant work with children or vulnerable adults. The Acts create offences and penalties for persons who fail to comply with its provisions. Your organisation should ensure that it fully complies with all the requirements of this legislation.

The National Vetting Bureau of An Garda Síochána issues vetting disclosures to organisations employing people who work in a full-time, part-time, voluntary or student placement basis with children and/or vulnerable adults. The National Vetting Bureau does not decide on the suitability of any person to work with children and vulnerable adults. Rather, in response to a written request for vetting, the National Vetting Bureau releases criminal history and other specified information on the person to be vetted to the prospective recruiting organisation.

Decisions on suitability for recruitment rest at all times with the recruiting organisation and the results of vetting should form only one part of the recruitment decision.

Advice, information and training for staff and volunteers of organisations

It is the responsibility of your organisation to identify what training your staff and volunteers need and to ensure that they receive adequate and appropriate child welfare and protection information and training. Your organisation should provide all staff members and volunteers with good-quality information on the recognition and reporting of child protection and welfare concerns. Training should also include clear information about the role of the statutory agencies with primary responsibility in child protection and welfare, namely, Tusla and An Garda Síochána.

If your organisation has employees who are mandated persons under the Children First Act 2015, you should also ensure that training specifically on the statutory responsibilities of mandated persons under the Act is made available to them.

If your organisation has a nominated designated liaison person or deputy designated liaison person, you should ensure that they receive adequate child protection and welfare information and training to enable them to undertake this role.

Tusla provides information resources on Children First, including in relation to child safeguarding statements and reporting child welfare and protection concerns. Tusla has also developed an e-learning training module, *Introduction to Children First*, which covers recognising and reporting child abuse, the role of mandated persons, mandated assisting, the responsibilities of organisations working with children to safeguard children using their services, and the role of designated liaison persons. You can access the e-learning module and other Tusla resources through the Tusla website (**www.tusla.ie**).

Information is also available on the Tusla website to assist your organisation if it wishes to develop its own specific Children First training (*Tusla Children First – Best Practice Principles for Organisations in Developing Children First Training Programmes*).

CHAPTER 5

Dealing with Concerns about a Child: Tusla and An Garda Síochána

AIM OF CHAPTER

The statutory bodies with primary responsibility for child welfare and protection are Tusla – Child and Family Agency, and An Garda Síochána. Tusla and the Gardaí have distinct functions, powers and methods of working. This chapter describes the role of each in relation to child welfare and protection and outlines what happens when a concern about a child is reported to Tusla.

While the process of child welfare and protection should be clear to professionals, families may not understand it in the same way. They can often feel intimidated or may not understand what will happen when a report is made to Tusla. The information in this chapter will help relevant professionals, who report concerns and are in contact with families, to explain the likely steps to be taken by Tusla when assessing a report about a child. This in turn will help them to support the family, as appropriate, through the process.

TUSLA - CHILD AND FAMILY AGENCY

On 1 January 2014, Tusla - Child and Family Agency, became an independent legal entity. It merged portions of three former statutory bodies: the Health Service Executive's Children and Family Services, the Family Support Agency, and the National Educational Welfare Board. Tusla has responsibility for child welfare and protection services, family support, educational welfare and a range of other services, including those relating to domestic, sexual and gender-based violence.

The key functions of Tusla, as set out in the Child and Family Agency Act 2013, are to:

- Support and promote the development, welfare and protection of children, and the effective functioning of families.
- Offer care and protection for children in circumstances where their parents have not been able to, or are unlikely to, provide the care that a child needs. To fulfil these responsibilities, Tusla is required to maintain and develop the services needed to deliver these supports to children and families, and provide certain services for the psychological welfare of children and their families.
- Be responsible for ensuring that every child in the State attends school or otherwise receives an education, and provide education welfare services to support and monitor children's attendance, participation and retention in education.
- Ensure that the best interests of the child guide all decisions affecting individual children.
- Consult children and families to help shape Tusla's policies and services.
- Strengthen interagency cooperation to ensure seamless services that respond to needs.
- Undertake research relating to its functions, and provide information and advice to the Minister for Children and Youth Affairs about those functions.
- Commission child and family services.

The specific role of Tusla is to promote the welfare of children who are at risk of not receiving adequate care and protection. Under the Child Care Act 1991, Tusla is obliged to coordinate information from all relevant sources about a child who may not be receiving adequate care and protection. If it is found that a child is not receiving adequate care and protection, Tusla has a duty to take appropriate action to promote the welfare of the child. This may include supporting families in need of assistance in providing care and protection to their children.

It is accepted that in general a child fares best within his or her own family. If at all possible, support will be offered to the child and the family to overcome any difficulties and to ensure that the child is safe. A child is only removed from his or her family as a last resort, and only if it is not possible to keep the child safe within the family setting. With the assistance of community or family support services, most families can make the necessary changes to ensure the safety of their child, and will not need social work intervention.

AN GARDA SÍOCHÁNA

The involvement of An Garda Síochána in cases of alleged child abuse and neglect stems from its primary responsibility to protect the community and to bring offenders to justice. Where it is suspected that a crime has been committed, An Garda Síochána has overall responsibility for the direction of any criminal investigation. It is the function of An Garda Síochána to interview and take any statements that will form part of the criminal investigation file.

The role of An Garda Síochána is to investigate alleged crimes and it is the responsibility of the Director of Public Prosecutions (DPP) to decide on and carry out prosecutions.

The National Vetting Bureau of An Garda Síochána issues vetting disclosures to organisations employing people who work on a full-time, part-time, voluntary or student placement basis with children and/or vulnerable adults. The National Vetting Bureau does **not** decide on the suitability of any person to work with children and vulnerable adults. Rather, in response to a written request for vetting, the National Vetting Bureau releases criminal history and other specified information on the person to be vetted to the prospective recruiting organisation. Decisions on suitability for recruitment rest at all times with the recruiting organisation, and the results of vetting should form only one part of the recruitment decision.

Statutory obligations on employers in relation to Garda vetting requirements for persons working with children and vulnerable adults are set out in the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012–2016.

JOINT WORKING BETWEEN TUSLA AND AN GARDA SÍOCHÁNA

Joint working between Tusla and An Garda Síochána forms an integral part of the child protection and welfare service. If Tusla suspects that a crime has been committed and a child has been wilfully neglected or physically or sexually abused, it will formally notify the Gardaí without delay. The specific focus of An Garda Síochána concerning child abuse and neglect is on preserving life; vindicating the human rights of each individual; and preventing, investigating and detecting criminal offences. On the basis of the investigation, An Garda Síochána may prepare a file for the Director of Public Prosecutions, who will decide whether to initiate a prosecution.

Where a child is at immediate risk of harm, Tusla and An Garda Síochána will work together to ensure the safety of the child. If a member of the Gardaí has reasonable grounds for believing that there is an immediate and serious risk to the health or welfare of a child, and it would not be sufficient for the protection of that child to await the making of an application for an emergency care order by Tusla, they may, under section 12 of the Child Care Act 1991, remove the child from danger and bring them to a place of safety. The child is then delivered to the care of Tusla as soon as possible. An emergency out-of-hours social work service provides social work consultation and advice to the Gardaí. The Gardaí have access to an on-call social worker and placements for children who need them due to the immediate risk to their safety. Tusla has a network of emergency foster carers available to receive a child removed from their family in an emergency.

If, in the course of their duties, the Gardaí become aware of a child welfare and protection concern, it should be formally reported to Tusla. As members of An Garda Síochána are mandated persons under the Children First Act 2015, if the concern is at or above the threshold of a mandated concern, this should be reported to Tusla, as outlined in Chapter 3 of this *Guidance*.

A protocol (*Tusla and An Garda Sióchána Children First – Joint Working Protocol for Liaison between both Agencies*) is in place between the two agencies that details how they cooperate and interact in dealing with child welfare and protection concerns. This protocol specifically covers the formal communication required between the two agencies about notifications of child welfare or protection concerns, and record keeping about joint working and recording of decisions. You can find this protocol on the websites of both agencies (**www.tusla.ie** and **www.garda.ie**).

Joint specialist interviews

Joint specialist interviews are conducted in cases where it is deemed necessary by both the Gardaí and Tusla. Tusla and An Garda Síochána have joint responsibility to ensure that specialist interviewer training is provided to Tusla staff and members of An Garda Síochána involved in the joint investigation

of child welfare and protection cases and subsequent intervention. The aim of this training is to develop specialist expertise in the interviewing of children who may have been abused. It will also enable members of each service to fully understand each other's role and responsibilities and to learn how to work collaboratively. Joint working between social work and policing services involved in the investigation of child abuse is recognised internationally as providing children with a less traumatic investigation experience and better outcomes where criminal and social care enquiries run in parallel.

WHAT HAPPENS AFTER A CONCERN IS REPORTED?

The main responsibility for the care and protection of children rests with their parents/guardians. Some parents/guardians are unable to provide adequate care for their children for a range of reasons and these families need help and support. Early intervention by family support services, where unmet needs have been identified, may help to prevent any deterioration of the current difficulties of the family. It may also assist in encouraging the positive factors already in place in the family.

Tusla operates through duty teams of social workers that receive child protection reports, assess and prioritise referrals and provide protective interventions to children and their families. Each team deals with the concerns that arise in its specific geographical area by reference to the home address of the child. You can find contact details for each team on the Tusla website (www.tusla.ie).

The following is a description of the general process undertaken by Tusla when dealing with reports of a concern about a child. It begins at the point where a concern is received, through the assessment of what level of concern exists, to linking the child and the family with the appropriate services. A detailed diagram of the pathway of a child welfare or protection concern that is reported to Tusla can be found in **Appendix 4**.

Receipt of concerns

Tusla receives reports of concerns in person, by phone, by email or in writing. The first consideration about a referral is the immediate safety of the child. Tusla social workers receiving reports of a concern treat all child welfare and protection concerns seriously, whatever their source. Reports of concerns are reviewed by Tusla to decide whether they are appropriate to Tusla's welfare and protection services and, if so, what intervention is appropriate to meet the needs of the child and their family.

If the concern is not appropriate to Tusla's welfare and protection services, Tusla will give information and advice on the most appropriate ways of addressing the needs of the child and their family.

Initial checks

When a report is received, a Tusla social worker will check to see if there is a record of any previous contact with the child's family. They may also contact other professionals (such as the general practitioner, teacher, public health nurse, speech and language therapist, child care worker, family support worker, psychologist) to see if they have any concerns about this child. The aim of this process is to help the social worker understand the child's history and circumstances, identify unmet needs, and determine if there is a risk of harm to the child. This will allow the social worker to decide on the most appropriate response.

If no child welfare or protection concerns are found, then the information gathered is recorded and kept on a confidential file. This file can be reviewed by Tusla social workers if further concerns arise or more information comes to light. If concerns are found after the initial checks, further evaluation involving an assessment of all aspects of the child and family's circumstances will follow to identify any necessary interventions. Depending on the level of need or risk of abuse identified, an intervention will generally take the form of family support services or formal social work intervention.

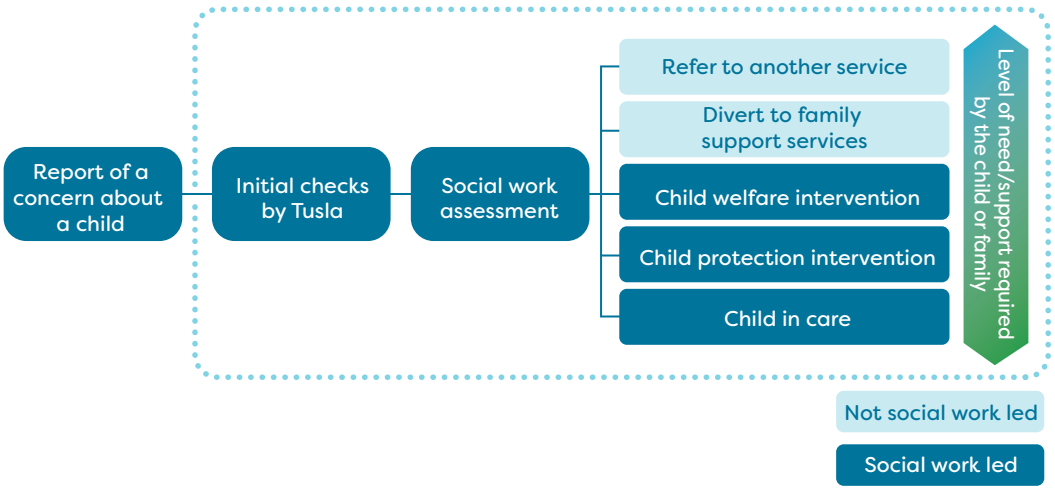
Social work assessment of a concern

If it is decided that an assessment is needed, the social worker will contact the family to ask for their cooperation in carrying out an examination of the child's and family's needs. The aim is to work in cooperation with parents or guardians to determine the appropriate supports or interventions to ensure the safety and welfare of the child.

There are a number of possible outcomes to the social worker's assessment:

- The case is closed to Tusla. For example, it is not appropriate to Tusla's child welfare and protection services or no unmet need or risk in relation to the child was found. Where appropriate, the case may be referred to another support service or specialised service not operated by Tusla (e.g. mental health or disability services).
- A family support service may be initiated by the social worker if the assessment indicates that the child has some unmet needs, but is not at risk of harm. Tusla provides and works with a range of community-based support services that deliver practical supports to children and parents.
- The child is found to have welfare needs that require a Tusla social work-led response and intervention.
- There is a child abuse concern that requires a child protection social work response and intervention by Tusla. Where the harm is deemed to be abusive the concern is reported to the Gardaí. A Child Protection Conference may be arranged and the child may be listed on the Child Protection Notification System.

Tusla response to a concern:



Concerns which require family support services

Many reports to Tusla will not relate to a child protection risk to the child, but will indicate that the parents/guardians are in need of help because a child's needs are not being adequately met. Tusla has a range of professionals who offer advice and support to families. They include family support workers, social workers, family therapists, social care staff, play therapists and youth workers. These professionals help families work through difficult issues, ensure that children have a stable environment to live in, and provide support for parents who are finding it hard to cope.

Where the reported concern falls below the threshold for child protection intervention by Tusla, but the family may benefit from other services, a Child Welfare Plan/Family Support Plan may be made. This will outline the steps to be taken to support the child and family. It could involve helping the parent through direct one-to-one work, parental modelling and assistance, a play or afterschool programme for the child, or practical support, such as arranging domestic help or referring for appropriate assessments. These could include psychological or psychiatric assessment of the child and/or parental assessment for mental health or addiction problems.

Concerns which require child protection intervention

Where serious concerns of ongoing risk of significant harm are identified during the assessment and interventions, or where a social worker has concerns that progress is not being made under the Child Welfare Plan/Family Support Plan, a plan of action is prepared. This is done by consulting with the parents and appropriate professionals to protect the welfare and safety of the child. A Child Protection Conference will be held to decide whether it is necessary to put the child's name on the **Child Protection Notification System (CPNS)** and if so, to agree a **Child Protection Plan**. In general, parents are invited to attend the Child Protection Conference, unless there are concerns that to do so could put the child at further risk.

CHILD PROTECTION NOTIFICATION SYSTEM

The Child Protection Notification System (CPNS) is a secure database that contains a national record of all children who have reached the threshold of being at ongoing risk of significant harm and for whom there is an ongoing child protection concern. The list is there to help a small group of relevant professionals make decisions about the safety of a child. Access to the CPNS is strictly confined to Tulsa social workers, members of An Garda Síochána, out-of-hours general practitioners and hospital medical, social work or nursing staff. If you are a parent, you will be notified if your child's name is on the CPNS. When it is decided that your child is no longer at ongoing risk of harm, your child's record will be changed from active to inactive.

CHILD PROTECTION PLAN

The Child Protection Plan applies to those children who are listed on the Child Protection Notification System. It is a list of actions that help to reduce the risk of harm to the child and to promote their welfare. The plan makes clear the steps to be taken and who is responsible for each part of the plan. Children who are on Child Protection Plans continue to live at home, unless it emerges that a child is at ongoing risk, or if the Child Protection Plan is deemed not to be working. These cases may result in a decision to remove the child from the home.

Tusla is committed to ensuring that children are supported to live at home with their families, near their friends and schools, and within their own communities. Children are only removed from their home setting when Tusla has formed the view that, at least for the time being, their health, development or well-being cannot otherwise be ensured.

This is usually done by agreement with the parents. However, where agreement cannot be reached, Tusla will apply to the courts for one of a number of care orders to ensure the safety and well-being of the child concerned. When this happens, every effort is made to place children within their extended family (relative foster care) or in a foster care placement. Most children who come into care are placed in a family setting. Where this is not possible or appropriate, a child may be placed in a Children's Residential Service, a care facility usually located in a community setting. Every effort is also made to keep siblings together when it is necessary to remove them from their parents' care.

While the assessment/planning process is taking place, the allocated social worker will review the progress of the interventions and other information from specialist professionals involved with the family and will revise the assessment of risk accordingly. The allocated social worker will remain in close contact with the child and family, make arrangements for assessments and consult with other professionals who see the child regularly. The key consideration is to identify the type of intervention required to ensure that the child's needs are being met and that the child is kept safe.

When an assessment of a child protection concern finishes, Tusla will decide whether the allegation of abuse is founded or unfounded. Tusla will liaise with the Gardaí for investigation of the criminal aspects of the case, and formal sharing of information with third parties will be considered. The safety of the child is paramount and at no stage should a child's safety be compromised because of concern for the integrity of a criminal investigation.

Sharing information with a third party

Allegations can be made by a child or an adult about current or past child protection concerns. The person who allegedly caused this harm may continue to pose a risk to any child with whom they have contact either in the course of their personal or professional lives. The child's welfare is the paramount consideration and, in a situation where a child is deemed to be at immediate and serious risk, Tusla will take all necessary steps to ensure the child's immediate safety. This may include sharing information with relevant third parties prior to informing the person who has allegedly caused the harm.

Tusla has an obligation under the Child Care Act 1991 to promote the welfare of children and therefore, is required to take any necessary and appropriate steps to share information with relevant third parties to ensure that effective protective measures can be taken to safeguard a child's welfare. This may involve sharing information with relevant third parties so that they, as responsible adults, can take the necessary protective action. Third parties in this context may include partners, family members or employers on a need to know basis.

Where a child is not at immediate or serious risk Tusla has a duty to ensure, where possible, that any action taken is in accordance with natural justice and fair procedures. In particular, the person allegedly causing the harm has a right to be informed of the allegations against them and to be given a reasonable opportunity to make a response. Any information provided will form part of the assessment processes and information will not be shared with a third party until a conclusion is reached that the concerns are 'founded' and that there is a belief that a child or children may be at potential risk of harm.

Tusla has developed internal procedures to guide staff when assessing allegations of abuse against an individual. These procedures require staff to promote the welfare of the child while also taking account of Tusla's co-existing obligation to protect the rights of the accused and to adhere to the principles of natural justice.

Rights of parents

Parents often find the investigation and assessment process to be very difficult and intrusive. Social workers should try to form respectful and constructive relationships with families and their children. If you are a parent of a child being assessed by Tusla, you should be told why and given the opportunity to respond. Concerns about your child should be explained to you. You should also be given information about the functions, role and powers of Tusla.

Tusla should explain both your and your child's legal rights. Your views and the views of your child, where appropriate, should be sought.

You should cooperate with the assessment process, and if you are unsure about any of the recommendations made, you should ask what they mean for your child and family. Tusla should explain how these changes are in the best interests of your child.

If no concerns are found, you may request that the social worker contacts each of the agencies they have consulted to let them know the result of the assessment.

Rights of children

Child protection interventions should always be child-centred and consider each child in the family as an individual. This means giving them the opportunity to express their views with a focus on how they are experiencing their home life. Children have a right to be heard, listened to and taken seriously. Taking account of their age and understanding, they should be consulted and involved in matters and decisions that may affect their lives. Where there are concerns about a child's welfare or safety, there should be opportunities provided for their views to be heard independently of their parents/guardian. A proper balance must be struck between protecting children and respecting the rights and needs of parents/guardians and families. Where there is conflict, Tusla should seek to put the child's welfare first.

Feedback to persons reporting concerns

Tusla will normally acknowledge reports that you make about a child and may contact you for further information, if necessary. However, it is not possible for Tusla to keep you informed on the progress or outcome of the case. While you may be frustrated at the lack of follow-up information, this is necessary to protect the privacy of those involved. If you continue to have concerns about the safety of a child, or should new information come to light after the concern has been reported to Tusla, you should bring this to the attention of Tusla.

Complaints procedure

If you are dissatisfied with the service you have received from Tusla, there is a complaints procedure. First, it is best to try to resolve the complaint at a local level. If this is not possible, you can make a formal complaint to Tusla for investigation by the complaints officer. You can find information on how to make a formal complaint on the Tusla website (www.tusla.ie)

CHAPTER 6

Oversight of Child Welfare and Protection

AIM OF CHAPTER

This chapter outlines the roles of Central Government and Government Departments in promoting the welfare and safety of children. It describes the structures that are in place across the various Government Departments to maintain high standards in child welfare and protection. It also details the roles of the key bodies that have an oversight role in relation to the statutory services for children and young people.

GOVERNMENT DEPARTMENTS

It is the responsibility of Government Departments to ensure that children and young people are kept safe while accessing services provided or funded by each department. It is also the responsibility of departments to ensure that all staff in the department itself, the sectors and agencies under the remit of the department, and the services funded by the department are aware of and comply with the obligations under this *Guidance* and relevant legislation. This includes, in particular, the statutory obligations on mandated persons and producing and publishing Child Safeguarding Statements.

DEPARTMENT OF CHILDREN AND YOUTH AFFAIRS

In 2011, the Government established the Department of Children and Youth Affairs (DCYA) and brought together a number of key areas of policy and services for children, young people and families. DCYA has responsibility for developing the legislative and policy framework through which the child protection and welfare services are delivered, monitored, inspected and measured.

The Minister for Children and Youth Affairs has a number of obligations under the Children First Act 2015. The Minister may issue guidelines about the protection and welfare of children. This revised and updated edition of *Children First: National Guidance for the Protection and Welfare of Children* has been published to fulfil that requirement and is therefore deemed to be guidelines issued under section 6 of the Act. The Minister may also make regulations on Child Safeguarding Statements and the procedures for the making of reports by mandated persons. The Minister must also establish a Children First Interdepartmental Implementation Group and appoint the members and the chairperson.

CHILDREN FIRST INTERDEPARTMENTAL IMPLEMENTATION GROUP

Part 4 of the Children First Act 2015 provides for the establishment of the Children First Interdepartmental Implementation Group. The Implementation Group is a forum for members to raise child welfare and protection issues of general concern, or with a cross-departmental or cross-sectoral dimension across the various sectors.

The Minister for Children and Youth Affairs established this group and it is chaired by the Department of Children and Youth Affairs. Its membership is composed of nominated persons from each Government Department, plus a representative from Tusla – Child and Family Agency, An Garda Síochána and the Health Service Executive.

The functions of the Implementation Group are to:

1. Promote compliance by Government Departments with their obligations under the Act
2. Monitor the implementation by Government Departments of the guidelines issued by the Minister
3. Provide support to Government Departments regarding the preparation and publication of sectoral implementation plans
4. Promote a consistent approach by Government Departments to the preparation and publication of sectoral implementation plans
5. Report to the Minister, when requested, on the implementation of the Children First Act 2015 and of the guidelines issued by the Minister
6. Provide information or advice, or make proposals, to the Minister on any of the above matters

The Implementation Group must also submit an annual report on the performance of its functions and activities to the Minister for Children and Youth Affairs.

Oversight groups

While all Government Departments are represented on the Interdepartmental Group, some departments will also have an internal Children First Oversight Group. This group can consider the child welfare and protection responsibilities of the department and its sectors and agencies in more detail. Child welfare and protection issues that arise within the department or its agencies can first be dealt with in the department's Children First Oversight Group and then referred to the Interdepartmental Group if necessary. For example, this could happen if the issue has broader cross-departmental or cross-sectoral implications.

SECTORAL IMPLEMENTATION PLANS

The Children First Act 2015 places an obligation on each Government Minister to ensure that their department prepares a **sectoral implementation plan**. These plans set out the programme of measures that are either in place or planned to ensure compliance with the provisions of the *Guidance* and the Act. The sectoral implementation plans apply not only to the Government Department but also to any organisation which provides a relevant service to children and receives funding from the relevant department in that regard. Departments must publish their sectoral implementation plans and review them every three years.

ADVICE, INFORMATION AND TRAINING

It is the responsibility of each Government Department or publicly funded body to identify the child welfare and protection information and/or training that is necessary for their staff and volunteers. All staff members and volunteers should be provided with good-quality information on the recognition and reporting of child protection and welfare concerns. Clear information should also be provided about the role of the statutory agencies with primary responsibility in child protection and welfare – Tusla, and An Garda Síochána. Government Departments should satisfy themselves that all mandated persons and providers of relevant services under their remit are aware of and comply with their specific statutory child welfare and protection obligations, including in particular, under this *Guidance* and relevant legislation.

Tusla provides information resources on the Children First *Guidance* and legislation, including an e-learning training module. This e-learning module, which is called I*ntroduction to Children First*, covers recognising and reporting child abuse, the role of mandated persons, including mandated assisting, and the responsibilities of organisations working with children to safeguard children using their services. You can find information on accessing this e-learning module and other Tusla information resources on the Tusla website (**www.tusla.ie**).

OTHER RELEVANT BODIES

The Health Information and Quality Authority (HIQA), the Ombudsman for Children's Office, and the National Review Panel have a significant role in the area of child welfare and protection.

Health Information and Quality Authority

The Health Information and Quality Authority (HIQA) is an independent authority, established to drive continuous improvement in Ireland's health and social care services. HIQA is responsible for the development of quality standards for child protection and welfare services, and in measuring the performance of Tusla's services against those standards.

HIQA has developed *National Standards for the Protection and Welfare of Children* (2012) to support continuous improvements in the care and protection of children receiving child protection and welfare services. These outcome-based standards provide a framework for the development of child-centred services in Ireland that protect children and promote their welfare. They aim to follow a child's journey within the child protection system to ensure that the child's safety and welfare is protected.

The standards describe what Tusla should do to make sure it protects and looks after the welfare of children who are not receiving adequate care and protection. The standards will highlight if the quality and safety of care of children in the child protection system needs to be improved. They can also help the people providing the services to find out how they can improve them.

The standards help children, their families and their carers to see what a safe child protection service should look like.

HIQA inspects each of Tusla's child welfare and protection service areas against the national standards, and reports on their findings. HIQA also has responsibility for inspecting services for children in care and in detention schools.

You can find further information and copies of the inspection reports on its HIQA website (**www.hiqa.ie**).

Ombudsman for Children's Office

The Ombudsman for Children's Office is an independent office that is accountable to the Oireachtas and has statutory duties to promote and safeguard the rights and welfare of children.

Its main functions are to:

1. Provide an independent complaints-handling service regarding public bodies
2. Initiate investigations of its own accord to examine whether there are systemic problems that may give rise to difficulties for many children
3. Promote children's rights, including through participation and communications activities
4. Monitor and review legislation on matters relating to the rights and welfare of children
5. Advise any Government Minister on any matter relating to the rights and welfare of children
6. Ensure that law, policy and practice meet the highest standards and obligations in keeping with the UN Convention on the Rights of the Child

You can find further information on the Ombudsman for Children's Office on its website (**www.oco.ie**).

National Review Panel

The National Review Panel was established in 2010 to review cases where children who are in the care of the State, or have been known to the child protection services, die or experience serious incidents. Its main function is to determine the quality of service provision to the child or young person before their death or experience of a serious incident. It focuses mainly on the effectiveness and quality of frontline and management activity as well the compliance with guidance and procedures. It also examines interagency collaboration and highlights obstacles to good practice.

A major function of the review process is identifying learning points which, if addressed, may positively influence the quality of practice. While Tusla provides administrative support, the NRP is functionally independent. It conducts its investigations objectively and submits finalised reports to the chair of the board of Tusla and to HIQA.

You can find further information on the National Review Panel, and copies of its reports on **www.tusla.ie/national-review-panel**.

APPENDICES

APPENDIX 1: SCHEDULE OF RELEVANT SERVICES UNDER THE CHILDREN FIRST ACT 2015

Schedule 1 of the Children First Act 2015 defines Relevant Services as:

1. Any work or activity which is carried out by a person, a necessary and regular part of which consists mainly of the person having access to, or contact with, children in—
   (a) an establishment which provides early years services within the meaning of Part VIIA of the Child Care Act 1991,
   (b) a school or centre of education, both within the meaning of the Education Act 1998,
   (c) any hospital, hospice, health care centre or other centre which receives, treats or otherwise provides physical or mental health services to children,
   (d) a designated centre within the meaning of section 2 of the Health Act 2007, in so far as it relates to an institution at which residential services are provided in accordance with the Child Care Act 1991 or to children with disabilities in relation to their disabilities,
   (e) a special care unit provided and maintained in accordance with section 23K of the Child Care Act 1991,
   (f) a children detention school within the meaning of section 3 of the Children Act 2001,
   (g) a reception or accommodation centre which provides residential accommodation services to applicants for asylum under contract to the Department of Justice and Equality where children may be accommodated, or
   (h) a centre which provides residential accommodation services to victims of domestic violence where children may be accommodated.
2. Any work or activity which consists of the inspection of a service provided to a child under the Child Care Act 1991, the Education Act 1998, the Children Act 2001 or the Health Act 2007.
3. Any work or activity which consists of the inspection, examination or investigation by the Office of the Ombudsman for Children under the Ombudsman for Children Act 2002.
4. Any work or activity which consists of treatment (including assessment which may lead to treatment), therapy or counselling provided to a child.
5. Any work or activity which consists of the provision of—
   (a) educational, research, training, cultural, recreational, leisure, social or physical activities to children,
   (b) care or supervision of children, or
   (c) formal consultation with, or formal participation by, a child in respect of matters that affect his or her life, whether or not for commercial or any other consideration.

6. Any work or activity which consists of the provision of advice or guidance services (including by means of electronic interactive communications), a necessary and regular part of which consists, mainly, of the person having access to, or contact with, children.
7. Any work or activity as a minister or priest or any other person engaged in the advancement of any religious beliefs which would or could bring that minister, priest or other person, as the case may be, into contact with a child.
8. Any work or activity as a driver of, or as an assistant to the driver, or as a conductor, or as a supervisor of children using a vehicle which is being hired or used only for the purpose of conveying children who are unaccompanied by a parent or guardian.
9. Any work or activity which is carried out by a member of An Garda Síochána, a necessary and regular part of which consists mainly of the person having access to, or contact with, children.

APPENDIX 2: SCHEDULE OF MANDATED PERSONS UNDER THE CHILDREN FIRST ACT 2015

Schedule 2 of the Children First Act 2015 specifies the following classes of persons as Mandated Persons for the purposes of the Act:

1. Registered medical practitioner within the meaning of section 2 of the Medical Practitioners Act 2007.
2. Registered nurse or registered midwife within the meaning of section 2(1) of the Nurses and Midwives Act 2011.
3. Physiotherapist registered in the register of members of that profession.
4. Speech and language therapist registered in the register of members of that profession.
5. Occupational therapist registered in the register of members of that profession.
6. Registered dentist within the meaning of section 2 of the Dentists Act 1985.
7. Psychologist who practises as such and who is eligible for registration in the register (if any) of members of that profession.
8. Social care worker who practises as such and who is eligible for registration in accordance with Part 4 of the Health and Social Care Professionals Act 2005 in the register of that profession.
9. Social worker who practises as such and who is eligible for registration in accordance with Part 4 of the Health and Social Care Professionals Act 2005 in the register (if any) of that profession.
10. Emergency medical technician, paramedic and advanced paramedic registered with the Pre-Hospital Emergency Care Council under the Pre-Hospital Emergency Care Council (Establishment) Order 2000 (S.I. No. 109 of 2000).
11. Probation officer within the meaning of section 1 of the Criminal Justice (Community Service) Act 1983.
12. Teacher registered with the Teaching Council.
13. Member of An Garda Síochána.
14. Guardian *ad litem* appointed in accordance with section 26 of the Child Care Act 1991.
15. Person employed in any of the following capacities:
    (a) manager of domestic violence shelter;
    (b) manager of homeless provision or emergency accommodation facility;
    (c) manager of asylum seeker accommodation (direct provision) centre;
    (d) addiction counsellor employed by a body funded, wholly or partly, out of moneys provided by the Oireachtas;
    (e) psychotherapist or a person providing counselling who is registered with one of the voluntary professional bodies;
    (f) manager of a language school or other recreational school where children reside away from home;

(g) member of the clergy (howsoever described) or pastoral care worker (howsoever described) of a church or other religious community;
(h) director of any institution where a child is detained by an order of a court;
(i) safeguarding officer, child protection officer or other person (howsoever described) who is employed for the purpose of performing the child welfare and protection function of religious, sporting, recreational, cultural, educational and other bodies and organisations offering services to children;
(j) child care staff member employed in a pre-school service within the meaning of Part VIIA of the Child Care Act 1991;
(k) person responsible for the care or management of a youth work service within the meaning of section 2 of the Youth Work Act 2001.

16. Youth worker who—
    (a) holds a professional qualification that is recognised by the National Qualifications Authority in youth work within the meaning of section 3 of the Youth Work Act 2001 or a related discipline, and
    (b) is employed in a youth work service within the meaning of section 2 of the Youth Work Act 2001.
17. Foster carer registered with the Agency.
18. A person carrying on a pre-school service within the meaning of Part VIIA of the Child Care Act 1991.

APPENDIX 3: SEXUAL OFFENCES AS SET OUT IN THE CHILDREN FIRST ACT 2015 [AS AMENDED BY SECTION 55 OF THE CRIMINAL LAW (SEXUAL OFFENCES) ACT 2017]

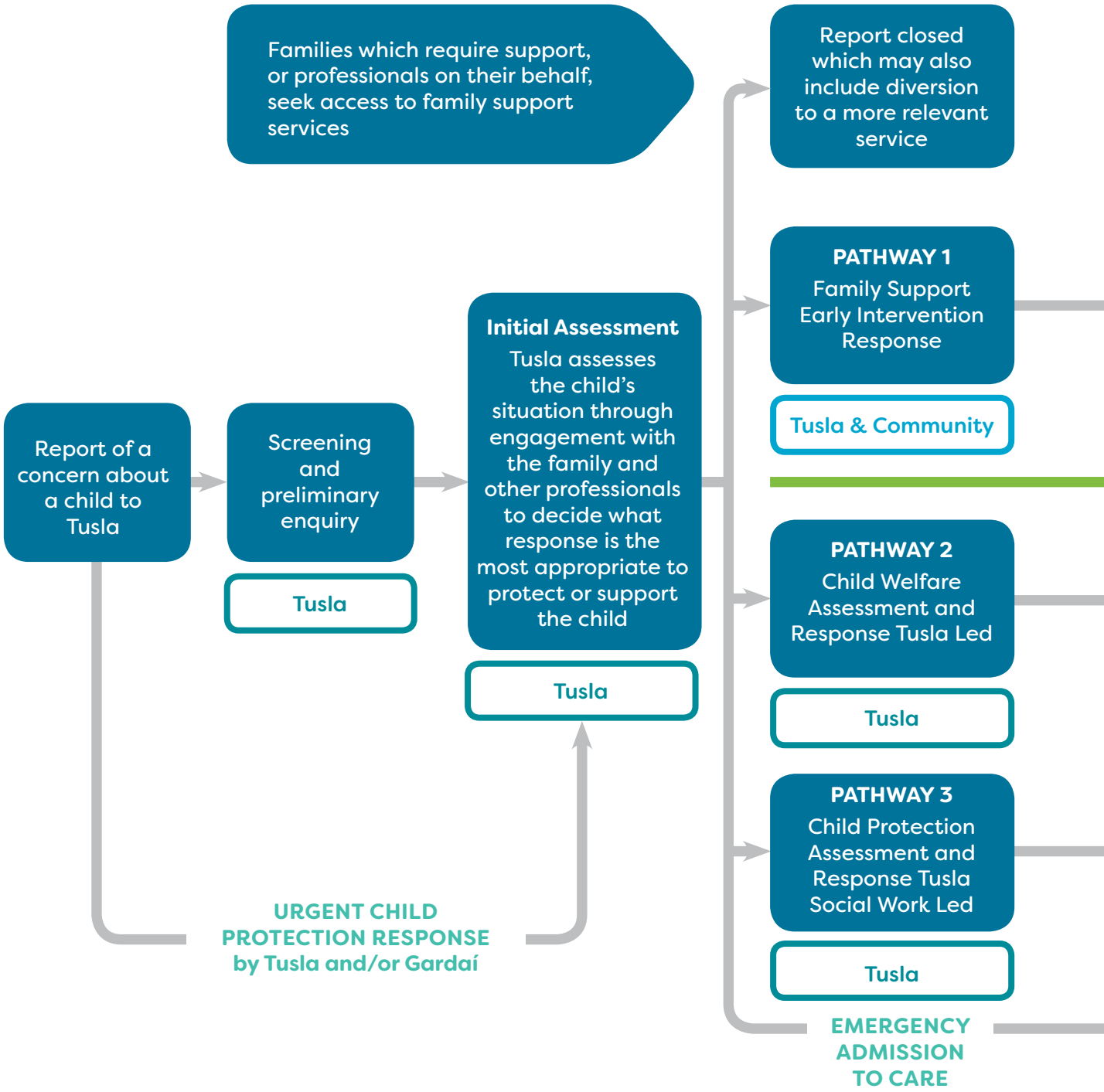
Schedule 3 of the Children First Act 2015 sets out offences for the purposes of paragraph (a) of the definition of 'sexual abuse' in section 2 as:

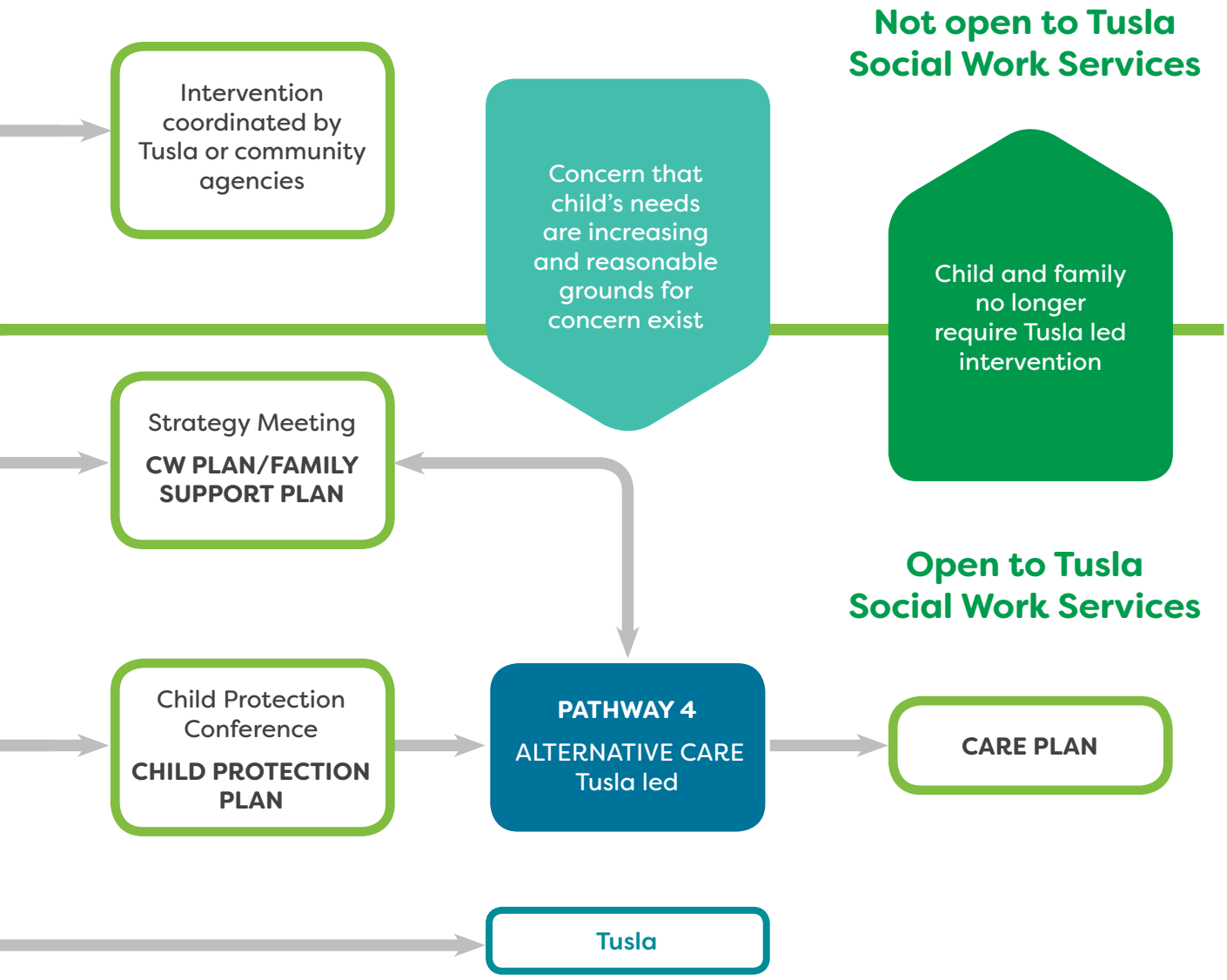
1. Rape.
2. Rape under section 4 of the Criminal Law (Rape) (Amendment) Act 1990.
3. Sexual assault.
4. Aggravated sexual assault within the meaning of section 3 of the Criminal Law (Rape) (Amendment) Act 1990.
5. An offence under section 1 of the Punishment of Incest Act 1908 (incest by males).
6. An offence under section 2 of the Punishment of Incest Act 1908 (incest by females of or over 17 years of age).
7. An offence under section 6(1) of the Criminal Law (Sexual Offences) Act 1993 (soliciting or importuning for purposes of commission of sexual offence).
8. An offence under section 2 of the Criminal Law (Sexual Offences) Act 2006 (defilement of child under 15 years of age).
9. An offence under section 3 of the Criminal Law (Sexual Offences) Act 2006 (defilement of child under 17 years).

9A. An offence under section 3A of the Criminal Law (Sexual Offences) Act 2006 (offence by person in authority).

10. An offence under either of the following provisions of the Child Trafficking and Pornography Act 1998:
    (a) section 3 (child trafficking and taking, etc., child for sexual exploitation);
    (b) section 4 (allowing child to be used for child pornography);
    (c) section 4A (organising etc. child prostitution or production of child pornography);
    (d) section 5A (participation of child in pornographic performance).
11. An offence under section 5 of the Criminal Law (Human Trafficking) Act 2008 in so far as it relates to a child who has been trafficked for the purpose of his or her exploitation (soliciting or importuning for purposes of prostitution of trafficked person).
12. An offence under section 176 of the Criminal Justice Act 2006 (reckless endangerment of children).
13. An offence under section 249 of the Children Act 2001 (causing or encouraging sexual offence upon a child).
14. An offence under any of the following provisions of the Criminal Law (Sexual Offences) Act 2017:
    (a) section 4 (invitation etc. to sexual touching);
    (b) section 5 (sexual activity in the presence of child);
    (c) section 6 (causing child to watch sexual activity);
    (d) section 8 (use of information and communication technology to facilitate sexual exploitation of child).

APPENDIX 4: PATHWAY OF A CHILD WELFARE OR PROTECTION CONCERN REPORTED TO TUSLA




Not open to Tusla Social Work Services
Intervention coordinated by Tusla or community agencies
Concern that child's needs are increasing and reasonable grounds for concern exist
Child and family no longer require Tusla led intervention
Strategy Meeting
CW PLAN/FAMILY SUPPORT PLAN
Open to Tusla Social Work Services
Child Protection Conference
CHILD PROTECTION PLAN
PATHWAY 4
ALTERNATIVE CARE
Tusla led
CARE PLAN
Tusla

Department of Children and Youth Affairs
43-49 Mespil Road
Dublin 4
D04 YP52
Tel: +353 (0)1 647 3000
E-mail: contact@dcya.gov.ie
Web: www.dcya.ie

Designed by Penhouse Design www.penhouse.ie

To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2
[Tel: 076 110 6834 or 1890 213434;
Fax: 076 110 6843]
or through any bookseller

Price: €1.00

ISBN 978-1-4064-2954-1