

22. Safeguarding, Child Protection and Welfare

22.1 Purpose

Children First defines a 'child' as a person under the age of 18 years, **who is not or has not been married**. The purpose of this policy is to provide information and procedures to be followed should a child protection or welfare concern arise in a CTC.

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 policy and procedures have been developed having reviewed inter alia, Children First: National Guidance and Child Protection and Welfare Practice Handbook (1999, 2011, **2015**). Our Duty to Care, Department of Children and Youth Affairs. Trust in Care, HSE. Child Protection Policy, Office of the Minister for Children. Guidelines for VEC Centres (2006). Protecting Children, Barnardos 2010. In accordance with recommended practice, the HSE was consulted in preparation of this policy and procedure. This Policy should be read in its entirety and in conjunction with Children First: National Guidance for the Protection and Welfare of Children 2011 & **2015**, **Criminal Justice (withholding of information on offences against children and vulnerable persons) Act 2012**, **National Vetting Bureau (children and vulnerable persons) Acts 2012–2016**, **Children First Act 2015**, **Criminal Law (sexual offences) Act 2017**.

22.2 Policy Statement and Guiding Principles

- a. The safety and well-being of the child is of paramount importance.
- b. A reasonable child protection and welfare concern must elicit an organisational response; that response should be proportionate to the level of risk to the child/ren and the nature of the concern reported. (Adapted from the *Children First*)
- c. Staff have a responsibility to report concerns about the protection or welfare of a child to the Designated Liaison Person (the general manager in a CTC, unless otherwise advised) from whatever source they emanate without delay, this includes reporting persons whom they believe may pose a significant risk to child/ren.
- d. The UN Convention of the Rights of the Child and the National Children's Strategy provide that children and young people have a right to be consulted in relation to matters that affect them, in accordance with their age and maturity'.
- e. **Confidentiality:** The need to maintain confidentiality and demonstrate respect for the privacy, dignity and the rights of the child, parents and others should be actively preserved at all times. Only those that are authorised and **'need to know'** should be told of the concern, suspicion, allegation or disclosure and this number should be kept to a minimum. (Duty to Care). The test is whether or not the person has any legitimate role the management of the concern.
- f. Child Protection and Welfare can be a subjective and emotive area and can result in strongly held and diverging views. Confidentiality, sensitivity, and professionalism

should be demonstrated at all times. An allegation should be treated as such; a person is innocent until proven otherwise. (*Adapted from Children First, Protecting Children, Barnardos & Our Duty to Care*). **A poorly managed process may have the unintended effect of undermining Child Protection.**

- g. A child protection or welfare concern can arise between children and there may be child protection and welfare issues in respect of both children. While the alleged victim's welfare is of paramount importance, as an organisation we need to be sensitive to our duties to both children.
- h. *While the policy refers to learners under the age of 18, it should also be considered to apply to vulnerable adults who are defined as having an impeded ability (due to illness/disability/circumstance) to make informed decisions to protect themselves from significant harm or exploitation when considered against their peers. (Legal definition pending).*
- i. **Conflict of Interest:** Care will be taken to ensure that any potential for a conflict of interest is addressed throughout the management of the concern. A conflict of interest may arise where the views or actions of those involved could be perceived to be influenced by a factor other than a primary concern for the protection and welfare of the child. For example, where there is a personal relationship with any of the parties concerned (other than the professional relationship).
- j. **Section 176 of the Criminal Justice Act** introduced the criminal charge of reckless endangerment of children. It states 'A person, having authority or control over a child or abuser, who intentionally or recklessly endangers a child by –
 - (a) Causing or permitting any child to be placed or left in a situation which creates a substantial risk to the child of being a victim of serious harm or sexual abuse, or
 - (b) Failing to take reasonable steps to protect a child from such risk while knowing that the child is in such a situation is guilty of an offence'

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

- k. The ***Protection for Persons Reporting Child Abuse Act, 1998***, provides immunity from civil liability to persons who have communicated child abuse 'reasonably and in good faith' to authorised persons. Protection is offered "unless it is proved that he or she (or the organisation) has not acted reasonably and in good faith in forming that opinion and communicating it to the appropriate person". A person who makes a report in good faith and in the child's best interests may also be protected under common law by the defence of qualified privilege. (Children First 2011, 2015)

The ***Act also provides for a criminal offence of false reporting*** of child abuse where a person (or organisation) makes a report of child abuse 'knowing that statement to be

false', and is designed to protect innocent persons from false / malicious reports. For more detailed information, please refer to Children First.

A staff member who reports a child protection concern in good faith to the authorised person and in accordance with these procedures will be supported throughout the process and protected against any form of victimisation. Their identity will only be provided on a '**need to know**' basis, and will be protected as much as is reasonably practicable.

- l. A staff member who is found to have failed to follow these procedures without delay or to have made a malicious or false allegation may be subject to disciplinary procedures as outlined in the disciplinary policy, up to and including dismissal.
- m. In determining a response to a reported concern, each case will be considered on its own merits. The case may require that these procedures are modified with the aim of ensuring that the concern is dealt with in an effective, efficient and fair manner. The protection and welfare of the child is the primary consideration in determining the CTC's response.

22.3 Key Definitions

(Sourced from Children First 2011, 2015 and the Practice Handbook 2011)

Child: A 'child' is defined under the Child Care Act 1991 as anyone under the age of 18 years **who is not or has not been married**. The child protection and welfare concerns for the unborn may need to be considered during pregnancy.

Child Abuse: Can be categorised into four different types, emotional abuse, sexual abuse, physical abuse and neglect. A child may be subjected to one or more forms of abuse at any given time. For detailed guidance and signs and symptoms, please refer to Children First 2011, 2015.

Child Protection: The process of protecting individual children identified as either suffering, or likely to suffer, significant harm as a result of abuse or neglect.

Child Protection Concern: The term 'child protection concern' is used when there are reasonable grounds for believing that a child may have been, is being or is at risk of being physically, sexually or emotionally abused or neglected.

Child Welfare Concern: A problem experienced by a child, or by the family of a child, that is seen to impact negatively on the child's health, development and welfare, and that warrants assessment and support but may not require a child protection response.

Designated Liaison Person (DLP): Every organisation, both public and private, that is providing services for children or that has regular, direct contact with children should identify a designated liaison person to act as a liaison with outside agencies and a resource person to any staff member or volunteer who has child protection or welfare concerns. *"The responsibility of the DLP is to establish, in consultation with the individual who raised the concern if reasonable grounds for concern exist". "The DLP is responsible for reporting*

allegations or concerns of child abuse to the HSE” (Child First 2011). The general manager is normally the DLP and the acting DLP should be contacted if the concern is in relation to the DLP.

Harm: Harm can be defined as

- (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.

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.

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.**

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 Children First, National Guidance for the Protection and Welfare of Children 2017.

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.**

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.**

Mandated Person: 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. 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. For detailed guidance, please **refer to Children First 2011, 2015.**

Retrospective Abuse: The term retrospective abuse refers to abuse that an adult discloses that took place during their childhood. When attending counselling or being treated for a psychiatric or health problem, adults may disclose that they were abused during their childhood

Vulnerable Adult - Adults who may be vulnerable are those who may be restricted in their capacity to guard themselves against harm or exploitation, possibly as a result of illness, dementia, mental health problems, physical disability or intellectual disability. For detailed guidance please refer to Department of Social Protection Safeguarding Vulnerable Adults June 2017

22.4 Reasonable grounds for a child protection or welfare 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

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 a child is in immediate danger and Tusla cannot be contacted, contact the Gardaí without delay.

22.4.1 Types of Child Abuse and how they may be recognised

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.

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

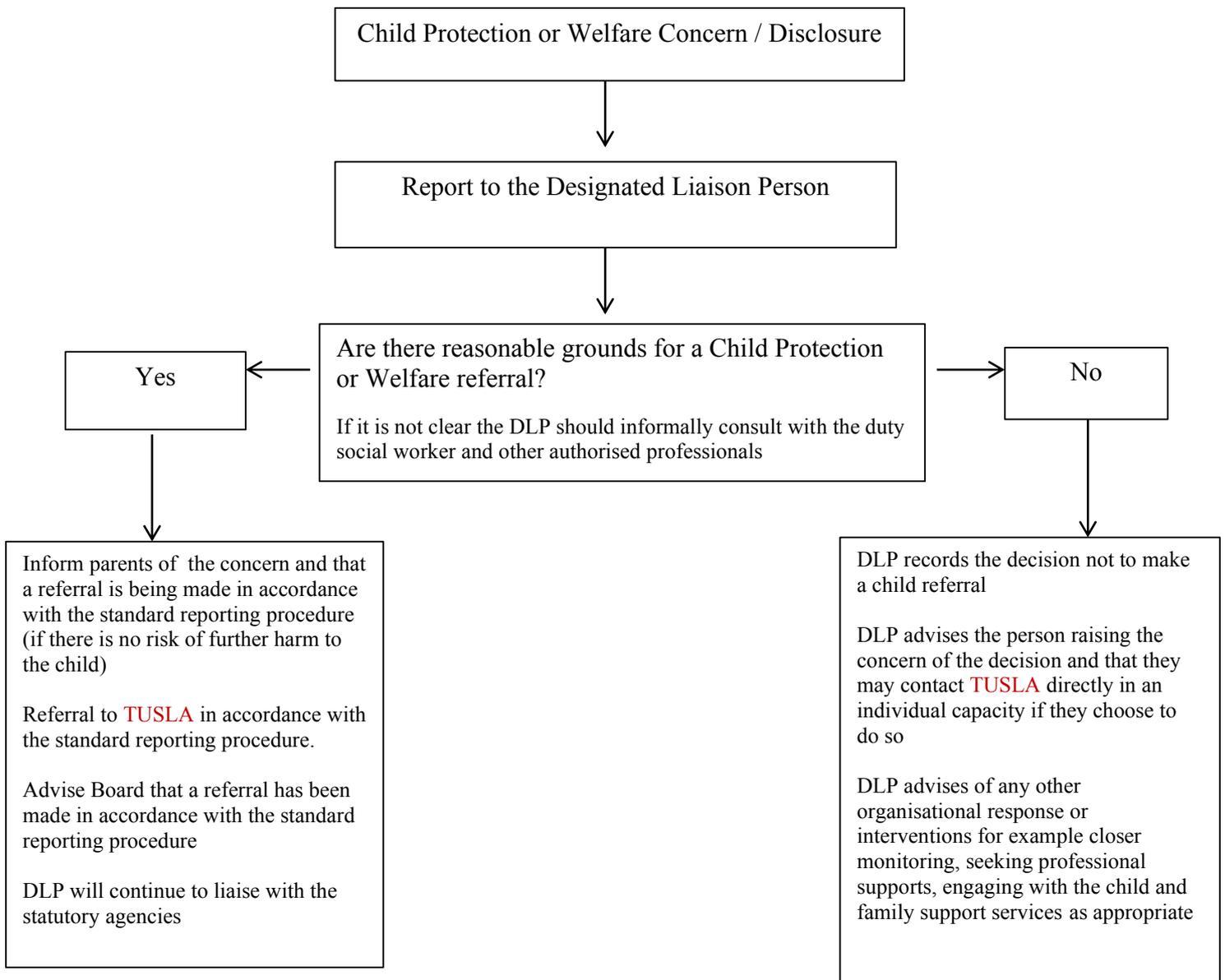
It should be remembered that sexual activity involving a young person may be sexual abuse even if the young person concerned does not themselves recognise it as abusive.

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 Children First National Guidance for the Protection and Welfare of Children 2017.

Child Protection & Welfare Reporting Flow Chart

*Please adhere to the **CONFIDENTIALITY** requirements throughout this process*



Where a concern is in relation to a member of staff of the CTC

1. **As a Child Protection/Welfare Issue:** The Child Protection Procedure is the same.
2. **As an Employment Issue:** The alleged breach of policy should be managed in accordance with the disciplinary procedure

22.5. Role and Responsibility of Employees:

Staff have a duty to report concerns or disclosures of child protection and welfare to the DLP without delay from whatever source they emanate in accordance with these procedures. No commitments to the child should be given regarding confidentiality, and at the earliest opportunity, the child should be sensitively informed that concerns must be reported to the DLP.

It may be difficult to know whether a child protection or welfare concern is reasonable and **if in doubt** discuss your concern with the DLP, he/she is 'best placed' to provide guidance and to know of or to access other information. The role of the DLP is to establish, in consultation with the person raising the concern, whether reasonable grounds exist and if the reported concern will be referred to **TUSLA** in accordance with the standard reporting procedures. For further information refer to Children First 2011, **2015**.

A staff member who reports a child protection concern in good faith, to the authorised person will be supported and protected from any form of victimisation. Their identity will be protected as much as reasonably practicable, and provided on a '**need to know basis**'.

22.6 Guidance for responding to Disclosures;

- Be aware that disclosures can be difficult for the child and give them time to tell as much as they wish, at their own pace and in their own language
- Stay calm and reassure the child that they have done the right thing in talking to you
- Listen to and accept what the child has to say and don't express any judgement towards the alleged perpetrator or situation
- Check that what you have heard is correct
- Do not promise to keep the secret, as sensitively as possible tell the child that you are required to report the conversation to the DLP
- At the earliest opportunity, record in writing, what the child has said in a factual manner, including as far as possible, the exact words used by the child. Include as much detail as possible, time/date/location and any witnesses. Sign and date the record and give it to the DLP without delay

22.7 Guidance for responding to observed concerns physical/ behavioural;

- Discreetly ask non leading questions seeking an explanation for the injury or behaviour
- Listen to and accept what the child has to say and don't express any opinion
- Check that what you have heard is correct
- At the earliest opportunity record what you observed and what the child has said by way of explanation including as far as possible the exact words used by the child. Include as much detail as possible about your observations in a factual manner and whether you have noticed anything before, include the time//date/location and any witnesses present. Sign and date the record and give it to the DLP without delay. **Do not attempt to discuss or investigate or contact parents/carers yourself.**

While a child protection concern regarding a colleague may bring with it an additional sense of unease, the safety of the child/ren must be the primary consideration and the concern must be reported to the DLP in the normal manner.

Child protection and welfare is a highly sensitive issue for those concerned. It is not appropriate to discuss the matter with colleagues or other unauthorised persons and confidentiality should be maintained at all times. In order to maintain the dignity of child and others involved and to maintain appropriate data protection procedures, concerns should only be discussed with authorised persons.

Written Records are extremely important as many signs of abuse are non-specific and there is a need to be able to examine whether a pattern is emerging or other indicators are present.

Points to consider:

- Ensure records are factual and include details of contacts, consultations and any actions taken.
- Cooperate with Tusla in the sharing of records, where a child protection or welfare issue arises. An example of this could be information needed for a Child Protection Conference or strategy meeting or information important for the assessment of risk to a child.
- Store records on child protection concerns, allegations and disclosures securely and safely.
- Use records for the purpose for which they are intended only.
- Share records on a need-to-know basis only in the best interests of the child or young person.

On-going support for the child

Following a disclosure, it is important that the staff member continues in a supportive relationship with the child. Disclosure is a huge step for a child. Staff should continue to offer support through; maintaining a positive relationship with the child, keeping the lines of communication open by listening carefully to the child and continuing to include the child in the usual activities. Any further disclosures or concerns should be reported in the normal manner.

Protecting children and young people is everyone's responsibility and failure to follow the CTC Child Protection, and Welfare policy and procedure, failing to make the report to the authorised person or unduly delaying making a report may result in disciplinary action up to and including dismissal.

22.8 Role and Responsibility of the Designated Liaison Person (DLP):

A child protection or welfare concern must elicit a response from the organisation that response should be proportionate to the level of risk to the child/ren and the nature of the concern reported.

“The responsibility of the DLP is to establish, in consultation with the individual who raised the concern if reasonable grounds for concern exist”. The DLP is responsible for reporting allegations or concerns of child abuse to **TUSLA**”. (Child First Practice Handbook 2011)
This may require that the DLP examines the information reported and asking non-leading questions, if necessary to give further clarity.

The responsibility of the DLP is to;

1. To establish, in consultation with the individual who has raised the concern if reasonable grounds for a concern of child abuse or neglect exist.

2. If reasonable grounds exist, to ensure that the standard reporting procedure is followed without delay.
3. To ensure their own skills and knowledge about child protection and welfare matters is up to date and to undertake any training necessary to keep updated.
4. To act as the point of contact for the CTC staff in relation to child protection and welfare matters.
5. To act as the liaison person with outside agencies
6. To ensure that staff have received appropriate information and training.
7. To maintain accurate and compliant record keeping procedures.
8. To report to the board in accordance with these procedures.

22.9 Guidance for the DLP when examining a reported concern:

Once the DLP has received a concern an examination of the information will be undertaken. As an additional support, the DLP may contact the HSE duty social worker or other authorised professionals for an informal consultation. In order to avoid any misunderstanding, the DLP will explicitly state that they are not making a referral and no identifying details or written records should be provided.

The protection and welfare of the child is the primary consideration when determining the organisational response to a child protection or welfare concern.

As part of the examination the DLP is also likely to consider;

- Whether the child is in imminent danger of abuse, or significant harm such that immediate protective measures should be undertaken
- Whether the reported concern is reasonably consistent with the definitions, signs and indicators of child *abuse, neglect* or *harm* as outlined in Children First
- Whether it should be reasonably regarded as a child protection or a child welfare concern
- Whether making further enquiries put the child at risk of further harm and/or compromise/frustrate a statutory or other inquiry or investigation
- Have there been other reported concerns, observations or indicators, is there a pattern emerging?
- Is there anything to indicate that the disclosure/concern is mistaken, false or malicious?
- Have explanations other than child abuse or neglect been considered
- Is the concern/suspicion/allegation in respect of another child
- Is it appropriate to consult the child in determining the organisational response

- What are the views expressed by the person raising the concern, the informal consultation, the child, the parent/guardian (where it is appropriate to involve them)

“Child Protection concerns should be supported by evidence that indicates the possibility of abuse”. “A concern about a potential risk to children posed by a specific person, even if the children are unidentifiable, should be communicated to **TUSLA**”. (Children First 2011).

Where the DLP, in consultation with the person raising the concern, has established that reasonable grounds exist for a concern of child abuse or neglect the DLP must ensure that the standard reporting procedure is followed without delay.

If there is a reasonable belief that the concern is urgent and that there is an imminent risk to a child, a referral may be made by telephone and then followed up with the completed form.

22.10 Outcomes following the examination of the reported concern may include;

1. If the DLP is satisfied that reasonable grounds for a concern exist

The DLP will report to Tusla using the Report Form (available on the Tusla website: <http://www.tusla.ie/children-first/web-portal/>)

The person raising the concern will be informed that the information is being referred to **TUSLA** in accordance with Children First and advised that the provisions of Protection for Persons Reporting Child Abuse would pertain.

The child and the parents/carers should be informed that a formal referral of the concerns is being made to **TUSLA** in accordance with Children First, **unless doing so could put the child at risk**. Any response should be recorded and included on the standard report returned.

As you will appreciate, informing the child/parent/carer that a child protection or welfare referral is being made needs to be handled in a sensitive and professional manner. How the information is conveyed to the child and their parents/guardians is extremely important and needs to be planned, thought through and treated sensitively. Consideration needs to be given to the sensitivity of the language used, the likely responses and how they may be managed. No identifying details of the person raising the concern should be provided or confirmed by the CTC.

The DLP shall immediately, or as soon as possible thereafter inform the board that a referral has been submitted to **TUSLA**, no details of the report should be disclosed to the board unless there are issues which need to be addressed directly by the board. (*Child Protection Procedures for Primary and Post-Primary Schools, DES 2012*)

2. The DLP is satisfied that reasonable grounds do not exist for referral to TUSLA

Following the examination of the information, and in consultation with the person raising the concern, the DLP may decide that the information does not reasonably support a child protection or welfare referral in accordance with the standard reporting procedure.

The information received may indicate, for example that there is a need to discuss concerns with the parent/carer, or perhaps a closer monitoring of the child's behaviour or injuries going forward or engaging TUSLA or other professional services to support the child or family.

The person raising the concern will be informed of the decision not to make a formal report to TUSLA and the details, **the reasons for the decision and any actions taken are recorded** and stored in a safe and secure location and in accordance with data protection requirements.

If the person raising the concern is unhappy with the decision of the DLP not to make a formal referral, they may contact TUSLA in an individual capacity if they feel it is necessary to do so.

Where TUSLA has advised that a report should not be made the board should be advised of this fact. Once again no details of the report should be disclosed to the board unless there are issues which need to be addressed directly by the board. (*Child Protection Procedures for Primary and Post-Primary Schools, DES 2012, 2017*).

22.11 Role and Responsibility of the Board of Management

Child Protection and Welfare can be a subjective and emotive area and can result in strongly held and diverging views. It is extremely important that confidentiality, sensitivity, and professionalism are demonstrated by all of those involved. A poorly managed process can have the unintended consequence of undermining Child Protection.

The responsibility of the Board in relation to Child Protection and Welfare in a CTC is to ensure that appropriate policies and procedures are in place, are fit for purpose and are in keeping with *Children First*. The decision as to whether a referral of a concern will be made to TUSLA in accordance with the standard reporting procedure is a matter for the DLP in consultation with the person raising the concern.

As the most visible and most senior professional in the CTC, the DLP has been trained and is 'best placed' to provide and access information and or previous or future concerns and/or other indicators. The role of the DLP is to establish, in consultation with the person raising the concern, whether reasonable grounds for a concern exist and decide if the reported concern will be referred to TUSLA in accordance with the standard reporting procedures. For further information, please refer to *Children First*. If the DLP is party to the concern, the acting DLP will assume responsibility.

The DLP shall immediately, or as soon as possible thereafter, inform the board that a report has been made to TUSLA. In the interests of protecting the anonymity of the child, no details of the report should be disclosed to the board unless there are issues which need to be addressed directly by the board. (*Child Protection Procedures for Primary and Post-Primary Schools, DES 2012, 2017*)

Where TUSLA has advised that a report should not be made the board should be advised of this fact. In the interests of protecting the anonymity of the child once again no details of the report should be disclosed to the board unless there are issues which need to be addressed directly by the board. (*Child Protection Procedures for Primary and Post-Primary Schools, DES 2012, 2017*).

The board are conscious of the sensitivity of the subject matter for the parties concerned and are aware that there is significant confidentiality, data protection and legal obligations required of them as members of the CTC board.

In order to support the integrity of the organisation's procedures, the Board will be aware of the **potential for a conflict of interest or loyalty**. For example, where a board member has a personal relationship with the concerned parties or is a nominee or employee of an outside agency with a role, responsibility or brief regarding child protection and welfare a conflict could be perceived to exist, and they will not be involved in the process.

Confidentiality: The need to maintain confidentiality and demonstrate respect for the privacy, dignity and the rights of the child, parents and others should be actively preserved at all times.

Only those that are authorised and 'need to know' should be told of the concern, suspicion, allegation or disclosure and this number should be kept to a minimum. (Our Duty to Care).

Where a Child Protection concern has been raised in relation to a member of staff, the child protection procedure remains the same. An alleged breach of the child protection policy will be processed in accordance with the disciplinary policy.

22.12 Role and Responsibility Statutory Agencies

TUSLA has a statutory responsibility in relation to Child Protection and Welfare. The duty social worker (HSE) may be contacted for an informal consultation to support the decision making process. In order to avoid any misunderstanding, the DLP will explicitly state that they are not making a report, and no identifying details or written records should be provided.

Once a child protection or welfare referral has been received, the HSE will assess the information and may want to speak to the parties concerned. All staff members are expected to co-operate with the statutory agencies. If the HSE are of the view that reasonable grounds exist to indicate that a child may have been or is at risk of being abused, a formal notification to the Child Care Manager is made, as per the HSE procedural guidelines which are contained in *Children First*.

The DLP is the liaison person with the statutory agencies on behalf of the organisation and will normally be kept informed and should seek to be kept informed of progress of reported concerns. The Garda Síochána has responsibility for any criminal aspects, and it is the responsibility of TUSLA to contact the Guards as appropriate. The CTC should only contact the Guards in emergency situations where the child may be at immediate risk and the HSE duty social workers are not available.

22.13 Child Protection Concerns regarding a CTC Employee

The protection and welfare of the child is considered the primary consideration when determining the response to a concern of child abuse. It is important that the child protection and welfare policy is read in its entirety as sections are equally applicable when considering a concern raised against a member of the CTC team.

The employer is obliged to make reasonable provision for the management of;

1. The Child Protection and Welfare Reporting Procedure (Children First)
2. The organisations procedure for dealing with employees

“Any action taken should be guided by agreed procedures, the applicable employment contract and the rules of natural justice. “Any action taken in reporting an allegation of child abuse against an employee should be based on an opinion formed ‘reasonably and in good faith’. It will be necessary to decide whether a formal report should be made based on reasonable grounds for concern and outlined in Chapter 3 of Children First.”

Child Protection and Welfare can be a subjective and emotive area and can result in strongly held and diverging views. Confidentiality, sensitivity, and professionalism should be demonstrated by all of those involved.

An allegation should be treated as such a person is innocent until otherwise found. (*Adapted from Protecting Children, Barnardos 2010, 2015 & Our Duty to Care*).

22.14 Management of a Child Protection Concern regarding a CTC Employee.

Where a Child Protection concern has been raised in relation to a member of staff, the child protection procedure remains the same. The Child Protection and Welfare concern will be examined by the DLP in accordance with procedures outlined in 22.9.

An alleged breach of policy will be processed in accordance with disciplinary procedures

In general, and where practicable, the same person shall not have responsibility for dealing with the reporting issue and the employment issue. The DLP is responsible for reporting if appropriate to **TUSLA**. The employer is responsible for addressing any employment related issues.

The DLP will advise a member of the Board (normally the Chair) that a Child Protection concern has been received in respect of an employee, any informal advice received from the HSE and of the DLP’s reporting decision. Care will be taken to ensure that any potential for a conflict is identified and details provided on a need to know basis only.

The employee concerned will be informed that a concern has been raised and the nature of that concern. The employee will be provided with an opportunity to respond. The response will be included if a formal report is being made to **TUSLA**.

The employee will be advised of any preventive measures being undertaken, for example being required to absent themselves from work with pay (administrative leave), a reassignment of duties, or providing a chaperone or other such measures. Any preventative measures should be proportionate to the level of risk and should not unreasonably penalise the employee financially or otherwise, unless necessary to protect children and / or protect the integrity of enquiries / investigations. Preventive measures should be viewed as precautionary and not as a disciplinary measure.

Where it has been decided that a breach of policy / procedure may have occurred, the staff member concerned will be requested to attend a disciplinary hearing and that they may be accompanied in the normal manner. At the hearing the employee will be advised of the

alleged breach and provided with an opportunity to respond. Please refer to Disciplinary Policy for further guidance.

It is acknowledged that it is in everyone's interest that the process is concluded as quickly as reasonably practicable.

Failure to adhere to the Child Protection and Welfare Policy will be treated seriously and may result in disciplinary action up to and including dismissal.

This policy may be amended or varied in light of further intended legislation.

Further Information is available from IACTO and supporting documents available at;

Our Duty to Care: http://www.dcy.gov.ie/documents/publications/ODTC_Full_Eng.pdf

http://www.tusla.ie/uploads/content/Children_First_National_Guidance_2017.pdf

http://www.tusla.ie/uploads/content/4214-TUSLA_Guide_to_Reporters_Guide_A4_v3.pdf

https://www.education.ie/en/SchoolsColleges/Information/ChildProtection/child_protection_guidelines.pdf

