

**TUSLA**

An Ghníomhaireacht um  
Leanaí agus an Teaghlach  
Child and Family Agency

Child Protection and  
Welfare Allegations  
against Tusla Staff  
**Policy and Procedure**

[www.tusla.ie](http://www.tusla.ie)

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## 1.0 Policy Statement/Introduction

Tusla will discharge its corporate responsibility to protect the dignity and welfare of children entrusted to its care and to support staff with responsibility for them. As emphasised in Children First Guidance 2017 the safety and welfare of children is everyone's responsibility and the best interests of the child are paramount.

This policy is established in line with The Children First Act 2015, The **'Children First – National Guidance for the Protection and Welfare of Children'** published in 2017 and Tusla Children First – Child Safeguarding.

This policy replaces the **'Trust in Care'** policy where the allegation relates to a child. The 'Trust in Care' policy will continue to apply for any other allegations made against staff where the allegation is not made by a child.

A child means a person under the age of 18 years, who is not or has not been married.

Where allegations of abuse of a child are made against a staff member, the welfare and safety of the child is of paramount importance. It is also acknowledged that staff members may be subjected to erroneous, malicious or vexatious allegations which can have a devastating effect on the person's health, career and reputation. Tusla recognises its obligation to protect the rights of the staff member and to ensure that there is a fair and impartial investigation of the allegation.

The aim of this Policy is two-fold:

- (i) **Preventative:** to outline the importance of the proper operation of human resource policies in communicating and maintaining high standards of care amongst Tusla staff;
- (ii) **Procedural:** to ensure proper procedures for reporting suspicions or allegations of abuse and for managing allegations of abuse against Tusla staff in accordance with natural justice.

## 2.0 Scope

This policy applies to all staff of Tusla. In this policy, references to staff should be interpreted as applying to direct employees of Tusla, agency contracted staff, independent contractors providing services to Tusla, persons on work placements, student placements and volunteers.

Compliance with this policy will ensure that allegations of child abuse against Tusla staff are dealt with expeditiously, consistent with a thorough and fair process in line with legislation and guidance.

### Reasonable grounds for concern

Child abuse can be categorised into four different types: neglect, emotional abuse, physical abuse and sexual abuse. The different types of child abuse and how they may be recognised are set out in Chapter 2 of the **'Children First – National Guidance for the Protection and Welfare of Children', 2017**.

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

## 3.0 Reporting Procedures – Reasonable Concerns

Staff are required to inform Tusla when they have reasonable grounds for concern that a child may have been, is being, or is at risk of being abused or neglected by a member of staff. Staff should refer to **Tusla's Staff Procedure for Reporting Child Protection and Welfare Concerns** which is in appendix two of this document.

Staff may become aware of a concern in a number of ways including, but not limited to, the following:

### 3.1 Staff member receives an allegation of abuse from a child, parent/guardian or member of the public concerning another staff member

A staff member who receives an allegation of abuse from a child, parent/guardian or member of the public concerning another staff member; once they have been made aware that the allegation relates to a Tusla employee should ensure that the details of the alleged abuse are fully documented including dates, times and any witnesses to the alleged incident. The statement should be read back to the person making the allegation to ensure accuracy. The staff member should then report the matter immediately to his/her Senior Manager or Line Manager as appropriate. The concern should then be notified to the relevant social work department in line with Tusla's reporting procedure for mandated persons, including protocol for reporting child protection and welfare concerns

### 3.2 Staff member suspects abuse

A staff member who suspects that a child may have been abused by another staff member should notify his/her immediate Line Manager or Senior Manager as appropriate without delay.

- ⦿ The staff member should not question the person concerned
- ⦿ The staff member should outline in writing the grounds on which his/her concerns are based
- ⦿ This report should be submitted without delay to his or her own Line Manager or Senior Manager as appropriate. The concern should then be referred to the relevant social work department in line with Tusla's reporting procedure for mandated persons, including protocol for reporting child protection and welfare concerns

### 3.3 Staff member observes another staff member engaging in abusive behaviour towards a child

A staff member who witnesses another staff member engaging in inappropriate behaviour towards a child should intervene or seek help to stop the behaviour. The staff member should ensure that the child is not in any immediate danger and receives the necessary treatment and support. The staff member should then report the matter immediately to his/her Line Manager or Senior Manager where appropriate. The concern should then be referred to the relevant social work department in line with Tusla's reporting procedure for mandated persons, including protocol for reporting child protection and welfare concerns.

## 4.0 Procedure for managing an allegation of abuse against a member of Tusla Staff

### 4.1 Assigned responsibilities within area

Each area working with children should designate;

- A named Senior Officer (see appendix 1) who has overall responsibility for ensuring that procedures in relation to allegations and concerns against staff are communicated to all staff within their teams; and
- A designated named Senior Manager (see appendix 1) to whom allegations or concerns should be reported, either by the social work department or the staff member who has reasonable grounds of concern
- Where the person subject of the allegation or concern is a named senior manager, the matter can be referred to the Senior Managers Line Manager.

### 4.1.2 Reasonable Grounds

Reasonable grounds for child protection or welfare concern can come from a variety of sources. Any staff member who receives information, suspects, or is concerned that a child has been abused, is being abused or at risk of child abuse has a duty of care to report the matter as soon as possible to the relevant social work department.

The staff member who has reported the matter to the relevant social work department is not responsible for deciding whether or not child abuse has occurred but is obliged to report suspicions or allegations of child abuse so that appropriate action can be taken.

### 4.1.3 Persons to be notified

In principle as soon as possible after a reasonable ground for concern has been raised the relevant social work department should be notified in line with *Tusla's Staff Procedure for Reporting Child Protection and Welfare Concerns*. (see appendix 2)

As soon as possible, and ensuring no immediate risks associated with same, the staff member for whom the allegation is against should be notified in writing.

### Reporting of Mandated Concerns

The Children First Act 2015 places a legal obligation on mandated persons to report child protection concerns at or above a defined threshold to Tusla. Mandated persons are further required to assist Tusla, on request, in its assessment of child protection concerns about children who have been the subject of a mandated report. Staff who are mandated persons are advised to consult Chapter 3 of the Children First – National Guidance for the Protection and Welfare of Children, 2017.

The thresholds in respect of the four types of abuse are set out in Section 2 of this policy. Section 14 of the Children First Act 2015 requires mandated persons to report a mandated concern to Tusla as soon as practicable. The Tusla Mandated Report form should be used in such cases. The staff member should inform his/her designated named Senior Manager that he/she has made a mandated report if it relates to a staff member.

It is important to note that the legal obligation to report under the Children First Act 2015 only applies to information that a mandated person acquires in the course of his/her professional work of employment. It does not apply to information acquired outside of work, or to information provided on the basis of a personal rather than a professional relationship. In such cases, staff are required to report all reasonable concerns in accordance with the requirements of Children First – National Guidance for the Protection and Welfare of Children, 2017 and this policy.

### Procedure when reasonable concerns or mandated concerns are reported

As soon as the social work department have determined that the person who is subject to the allegation is a member of staff of Tusla, the social work department should notify the staff member's Senior Manager. Thereafter, as soon as possible the staff member should be informed of the nature of the allegation, how enquires will be conducted and the possible outcome e.g. disciplinary action, criminal investigation.

In some circumstances, the parent(s)/legal guardian(s) may need to be told straight away, e.g. if a child is injured and requires medical treatment. If this is the case, the Senior Manager should be notified immediately.

### 4.1.4 Support for the Child/Young Person

The Social Work Department in consultation with the Senior Manager if appropriate should consider the impact on the child concerned and provide support as appropriate. Where appropriate, liaison between disciplines and other agencies should take place in order to ensure that the child's needs are addressed.

It should be clear to the child and their parent(s)/legal guardian(s) who is responsible for keeping them informed of the progress of the assessment of the allegation or allegation.

### 4.1.5 Confidentiality

Every effort should be made to maintain confidentiality and guard against publicity while a concern or allegation is being investigated or considered. Information should be restricted to those who have a need to know in order to protect children, facilitate enquiries, or manage related disciplinary or suitability processes.

The person who is subject to an allegation of abuse is entitled to know who has been informed and the reasons for this information being shared. They are also entitled to know in advance, unless there is a known or suspected immediate and serious risk to a child, of any intention to inform other relevant third parties of the allegations made against them.

The designated Senior Manager, in consultation with the appropriate Social Work Department assigned to investigate the allegation will determine whether any other relevant third parties will be informed of the allegations and provide the alleged abuser with access to fair procedure in respect of this process.

All staff continue to be reminded of their obligations regarding confidentiality and in line with Tusla's Data Protection Policy. Any breaches of confidentiality through this process will be considered in line with Tusla's Disciplinary Policy under serious misconduct, stage 4 Disciplinary Process.

### 4.1.6 Support for the person subject to allegation

As soon as possible after an allegation has been received, the person subject to the allegation or concern should be made aware of the allegation and advised to contact his/her union or work colleague.

Human Resources should be consulted at the earliest opportunity in order that appropriate support can be provided via occupational health or employee welfare arrangements.

The person should be clear on who will update them on the progress of the allegation. This is an ongoing process and should be continued throughout any An Garda Síochána investigation, social work department process or HR investigation outlined in section 5 of this policy.

The staff member concerned should;

- be treated fairly and honestly and helped to understand concerns expressed and processes involved
- be informed that no conclusions in respect of their responsibility for any allegations of abuse will be formed until such time as an assessment has been completed and they have had opportunity to respond fully to any allegations made against them
- be kept informed of the progress and outcome of any assessment and the implications for any disciplinary or related process and
- if placed on administrative leave, be kept up to date about events in the workplace



#### 4.1.7 The Role of Tusla's Social Work Department

Upon receipt of the allegation within the social work department and once the social work department have determined that the allegation relates to a staff member of Tusla, the staff member's Senior Manager must be notified without delay. When dealing with the allegation, the Senior Manager and the Social Work Department should ensure, insofar as possible, that confidentiality is maintained and the staff member against whom the allegation is made is fully protected throughout the process.

#### 4.1.8 Managing interim risk/ Protective Measures

It should be noted that any protective measures need to be proportionate to the level of risk to the child. In all situations the perceived level of risk needs to be considered and managed for all parties.

As soon as the Senior Manager has been made aware of an allegation; a risk assessment must be completed.

In certain situations the level of risk may require the member of staff not to be working with a specific child or all children until the assessment is complete.

If this is the case then various options are open to the responsible management including:

- ⦿ reassignment so as not to come into contact with one or more children
- ⦿ restricting a person's duties and agreeing that they will not work with children during the assessment
- ⦿ administrative leave
- ⦿ the removal of children from their care situation

Reassignment or restriction of duties or administrative leave should be considered and clearly communicated as neutral acts. They should be considered in any case where:

- ⦿ there is cause to suspect a child is at risk of significant harm
- ⦿ the allegation warrants investigation by An Garda Síochána **or**
- ⦿ the allegation is otherwise considered serious

In order to prevent interference, a decision needs to be taken quickly by the designated senior manager as to what level of security is required in respect of any records that may contain information relevant to an assessment.

#### 4.1.9 During the assessment by the Social Work Department

Throughout the assessment by the social work department relevant actions will be carried out where necessary and staff will co-operate with any assessment queries.

#### 4.1.10 Following the assessment by the Social Work Department

Upon completion of the social work department assessment a report should issue directly to the Senior Manager with responsibility for the staff member.

If the assessment of the **allegation is founded**, the outcome of the report will be considered by the Senior Manager, who will commence an investigation as set out within section 5 of this policy. No investigation process as set out in section 5 of this policy will commence until such a time as is appropriate to do so and will not interfere with any An Garda Síochána investigation.

Where it is concluded that there is **insufficient evidence** to substantiate an allegation the Senior Manager will consider what further action, if any, should be taken.

## 5.0 Tusla Investigation following receipt of the report from Social Work Department

Upon receipt of the report from the Social Work Department the Senior Manager will determine if a formal internal investigation is warranted. No investigation process will commence until such a time as is appropriate to do so and will not interfere with any An Garda Síochána investigation.

### 5.1.1 Initial Meeting with the Staff Member regarding the Investigation

A meeting should be arranged to advise the staff member of the intention to carry out an investigation in line with this policy. The staff member should be advised of his/her right to be accompanied at this meeting by a union representative or work colleague. The staff member should be given details of the allegation at least five working days prior to the meeting and afforded an opportunity to make an initial response if s/he so wishes. S/he should be advised as to what happens next and told not to make contact with the complainant.

The staff member should be advised of support and counselling services that are available.

### 5.1.2 Managing interim risk/ Protective Measures

Further to receipt of the report from the social work department, a further risk assessment will be carried out in line with 4.1.8 above.

It should be noted that any protective measures need to be proportionate to the level of risk to the child. In all situations the perceived level of risk needs to be considered and managed for all parties.

### 5.1.3 Conducting the Investigation – Principles governing the investigation

- ⦿ The investigation will be conducted thoroughly and objectively in strict accordance with the terms of reference and with due respect for the rights of the complainant and the rights of the staff member to be treated in accordance with the principles of natural justice
- ⦿ An investigation team will be appointed by the Senior Manager
- ⦿ The investigation team will have the necessary expertise to conduct an investigation impartially and expeditiously. Where appropriate, the investigation team may request appropriately qualified persons to carry out assessments, validation exercises, etc
- ⦿ Confidentiality will be maintained throughout the investigation to the greatest extent consistent with the requirements of a fair investigation. It is not possible however to guarantee the anonymity of the complainant or any person who participates in the investigation
- ⦿ The investigation team may interview any person who they feel can assist with the investigation. Staff are obliged to co-operate fully with the investigation process and will be fully supported throughout the process
- ⦿ A written record will be kept of all meetings and treated in the strictest confidence and shared with the relevant parties
- ⦿ Staff who participate in the investigation process will be required to respect the privacy of the parties involved by refraining from discussing the matter with other work colleagues or persons outside Tusla
- ⦿ It will be considered a serious disciplinary offence to intimidate or exert pressure on any person who may be required to attend as a witness or to attempt to obstruct the investigation process in any way

### 5.1.4 Steps in conducting the Investigation

- The investigation will be conducted by the designated person(s) agreed between the parties
- The investigation will be governed by clear terms of reference based on the written allegation and any other matters relevant to the allegation. The terms of reference shall include and specify the following:
  - The investigation will be conducted in accordance with the Child Protection and Welfare Allegations against staff policy
  - The timescale within which the investigation will be completed
  - The investigation team may set time limits for completion of various stages of the procedure to ensure the overall timescale is adhered to
  - Scope of the investigation i.e. the investigation team will determine whether or not the allegation has been upheld and may make recommendations (other than disciplinary sanction) where appropriate
- The staff member against whom the allegation is made will be advised of the right to representation and given copies of all relevant documentation prior to and during the investigation process, i.e. the allegation Witness statements (if any) The investigation team will interview any witnesses and other relevant persons. Confidentiality will be maintained as far as practicable
- Persons may be required to attend further meetings to respond to new evidence or provide clarification on any of the issues raised
- The investigation team will form preliminary conclusions based on the evidence gathered in the course of the investigation and invite any person adversely affected by these conclusions to provide additional information or challenge any aspect of the evidence
- On completion of the investigation, the investigation team will form its final conclusions based on the balance of probabilities and submit a written report of its findings and recommendations to senior management

- The staff member against whom the allegation is made will be given a copy of the investigation report and an opportunity to comment before any action is decided upon by management

Tusla reserves the right to initiate Tusla's Disciplinary Procedure where considered appropriate following receipt of the investigation report and the comments of the staff member, if any

### 5.1.5 Timescales

It is important to recognise that the right outcome is far more important than meeting set timescales. The following principles should be used at all times.

- Minimising delay
- Providing full written information
- Being open
- Ensuring access to independent support

## 6.0 Allegations not meeting the threshold for social work assessment

If an allegation is screened by the social work department and it does not meet the threshold for the social work department to investigate under this policy; the allegation will be returned to the relevant Senior Manager. The Senior Manager must assess if the allegation requires investigation i.e. a possible breach of Tusla's Code of Behaviour for working with Children and Families. If it is determined that the allegation does require investigation, the procedure as outlined in ***Tusla's Code of Behaviour for Working with Children and Families*** will be followed.

## 7.0 Record Keeping

During the course of the HR investigation Senior Management responsible should keep a clear and comprehensive summary of the case record in line with Tusla Data Protection Guidelines.

The record should include details of how the allegation was followed up and resolved, the decisions reached and the action taken. It should be completed in consultation with the Child and Welfare Protection team where a child protection assessment has been undertaken.

A copy of this summary should be placed on the person's confidential file and given to the individual.

## 8.0 Professional Registrations

Further to an allegation being found against a staff member, the Senior Manager will report the matter to the relevant professional registration body where necessary and appropriate.

The Senior Manager will notify the staff member concerned of their intention to refer the matter to the relevant professional registration.

## 9.0 Communicating the Child Protection and Welfare Allegations against Tusla Staff Policy and Procedure

Each staff member should be given a copy of the Child Protection and Welfare Allegations against staff policy and procedure. Briefing sessions should be organised for all staff to ensure that staff are aware of their obligations towards children and know the actions to take if abuse is suspected or alleged. Attendance at these briefing sessions should be mandatory.

## 10.0 Review of this policy

This policy will be reviewed initially within a 9 month period of initial launch and thereafter on an annual basis in line with best practice for reviewing policies and procedures.

### Appendix 1

Senior Officer assigned to various areas as follows:

- Service Directors assigned to DNE, DML, South, West
- ACTS Service – Assigned Service Director
- Adoption Services – Director of Transformation and Policy
- Domestic Violence – Assigned Service Director
- Children's Service Regulation – Director of Children's Service Regulation
- Educational Welfare Services – Director of Educational Welfare Services
- Finance – Director of Finance
- Human Resources – Director of HR
- Legal Services – Head of Legal
- Office of the Chief Operations – Chief Operations Officer
- Office of the Chief Executive – Chief Executive Officer
- Transformation and Policy - Director of Transformation and Policy
- Quality Assurance – Director of Quality Assurance
- Residential Childcare Services- National Service Director

Senior Manager assigned to various areas as follows:

- Area Managers assigned to the 17 areas
- ACTS Service – National Manager for ACTS
- Adoption Services – National Manager for Adoption Services
- Domestic Violence – Assigned by National Manager for Domestic Violence
- Children's Service Regulation – Children Services Regulation Area Manager
- Educational Welfare Services – Integrated Area Manager(s)
- Finance – Assigned by the Director of Finance
- Human Resources – Assigned by the Director of HR
- Legal Services – Assigned by Head of Legal
- Office of the Chief Operations – Assigned by the COO
- Office of the Chief Executive – Assigned by the CEO
- Transformation and Policy – Assigned by the Director of T&P
- Quality Assurance – Assigned by the Director of QA
- Residential Childcare Services- Regional RCS Managers

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