

# Interim Guidance for Tusla on the Operation of the National Review Panel

The Department of Children, Equality,  
Disability, Integration and Youth

August 2021

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## **1. Purpose of Guidance**

The Department of Children, Equality, Disability, Integration and Youth (DCEDIY) today releases updated guidance on the operation of the National Review Panel (NRP), developed in partnership with officials from the NRP and the Child and Family Agency (Tusla). These guidelines replace the 2014 guidance in full, which had remained unchanged since its publication.

The purpose of this updated guidance is to provide revised direction to Tusla, as well as to services funded by Tusla in relation to family support, child protection and welfare, and the National Review Panel on how it reviews serious incidents, including the deaths of children in care, in accordance with its statutory obligations for the protection and welfare of children. It contains substantive revisions on the 2014 document, including an updated definition of serious incidents, and provision for the quick and efficient identification of valid learnings at any stage throughout the review process.

It is noted that this is an Interim Guidance document, which will be reviewed immediately and amended as appropriate following a decision by DCEDIY regarding the operating model of the NRP. These interim guidelines will nevertheless perform an important function by providing improved guidance over the period of the review of the model and the implementation of any structural changes arising.

In following the guidance set out in this document, Tusla will be fully cognisant of its own statutory responsibilities and the statutory and legal rights of children, their families and any other statutory or judicial bodies or officers.

The NRP's reports are intended to collate information that will enable valuable system learning across the entire spectrum of services, including health services, education, housing providers, and others.

## **2. National Review Panel (NRP)**

The NRP was established by the Health Service Executive (HSE) in 2010 to undertake reviews of serious incidents,<sup>1</sup> including deaths, of children in care or known to Tusla social work. The NRP is commissioned by the Child and Family Agency (Tusla) but is functionally<sup>2</sup> independent. The overarching objective of the NRP is to promote learning and best practice from its review of cases, with a view to assisting the child welfare and protection system in improving its services and minimising the possibility of similar deaths and/or serious incidents to children and young people using their services.

The NRP is independent in the performance of its functions, making findings of fact and producing reports that are objective and independent of Tusla. As a means of expressing this functional independence, the NRP operates separately from Tusla, has an independent Chair and panel members along with its own independent legal advisors.

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<sup>1</sup> Serious incidents referred to in this Guidance are specifically child protection and welfare serious incidents (see Section 4). This is because the term 'serious incident' is the term used in the Ryan Report Implementation Plan (2009). It should be noted that defining a serious incident in child protection and welfare is extremely complex. The nature and number of serious incidents reported will inform any future revisions of this definition.

The NRP Panel consists of professionals from a range of disciplines appointed for their professional expertise. It allows for timely reviews but also immediate feedback to the system on individual or systemic risks which need urgent action.

### 3. Child and Family Agency - Tusla

The Child and Family Agency (Tusla) is the State agency responsible for child protection, improving wellbeing and outcomes for children, early intervention and family support. Tusla also develops and implements national service policies and guidelines that inform, direct and support relevant service provision.

Established in 2014 under the Child and Family Act 2013, Tusla is a distinct legal entity which consolidates child and family services and supports. The services provided by Tusla include child protection and welfare services; educational welfare services; psychological services; alternative care; family and locally-based community supports; early years’ services; and domestic, sexual and gender-based violence services.

#### 3.1 Other Stakeholders

Other services that have a role in the development of reports are requested to cooperate fully and in as timely a manner as practicable. Such engagement and cooperation is viewed as crucial in determining the inputs of other key service responses to cases thereby ensuring greater systems-wide learning. Tusla and the DCEDIY are proactive in supporting the NRP to obtain the cooperation of other government departments, agencies and funded services in the review process. These services include but are not limited to those provided for children by the State, Non-Governmental Organisations, independent actors, and inter-agency structures or collaborations, in particular:

- The HSE and the wider health family, in particular CAMHS
- The Department of Education and Skills,
- The Department of Justice,
- Tusla-funded services,
- Other services provided by the Coroner’s Office and other relevant organisations and bodies.

### 4. Reporting of Relevant Cases involving Children and Young People to the NRP

Tusla must report to the NRP within three working days of becoming aware of a serious incident, notifiable as major or extreme<sup>3</sup>, or a death, and where the following conditions have also been met in full:

<sup>3</sup> This terminology is based on the National Incident Management System definition used by Tusla, defined as follows:

Outcome at time of incident reporting	Severity Rating
5 Long-term disability/Incapacity (incl. psychosocial)	Major
6 Permanent/Incapacity (incl. psychosocial)	Extreme
7 Death	Extreme

- Where the individual concerned is either:
  - A child whose immediate family is known to Tusla social work<sup>4</sup>;
  - A child known to Tusla social work or a Tusla-funded service<sup>5</sup>, or;
  - A young adult who was in receipt of aftercare services at the time of the incident, under section 45 of the Child Care Act 1991 (as amended in 2015 or subsequently).

For the purpose of this Guidance, a serious incident can be defined as where an individual who meets the above criteria has suffered, as a result of alleged/suspected or confirmed abuse and/or neglect or exposure to risk of significant harm:

- A life threatening injury, or;
- A serious impairment of physical or emotional health, wellbeing or development.

In addition, in instances where cases come to light which carry a high level of public concern and where the need for further investigation is apparent, Tusla may at its discretion refer such matters to the NRP for its consideration. Such cases need not be limited to deaths, serious incidents or the cohort of children and young people referred to above and may include cases where:

- A child protection issue arises that is likely to be of wider public concern;
- A case gives rise to concerns about interagency working to protect children from harm; or
- The frequency of a particular type of case exceeds normal levels of occurrence.

The NRP will make the decision to carry out a review of the case notified to it, in line with the guidance within this document. Decisions on whether the NRP will review certain cases (e.g. where deaths are clearly from natural causes and there are no other indicators of concern) will be made by the Chair of the NRP and Tusla will be informed of same. The level and scale of review will be determined by the Chair and Deputy Chair and may be subject to revision in the event of further information coming to light.

## **5. Purpose of Conducting Reviews**

Reviews are completed for the following reasons:

- To review the quality of services provided directly or indirectly by Tusla to a child or young person in instances of death or serious incident;
- To determine compliance with relevant standards of governance and accountability and to identify weakness in policy and practice for the case under review;
- To review the quality of interagency and inter-disciplinary coordination in order to establish that the needs of the child or young person were central to care planning;
- To gain an understanding of the risk factors to which children are exposed and those inherent in the child protection and welfare system, and to reach conclusions, make recommendations if

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<sup>4</sup> Open cases or cases which have been closed in the past two years are categorised, for the purpose of this Guidance, as known to the social work department or Agency-funded service.

<sup>5</sup> A Tusla funded service refers to services funded by Tusla in relation to Child Protection and Welfare (CPW), Alternative Care and Fostering, Partnership, Prevention and Family Support (PPFS), and Aftercare.

appropriate, and identify evidence based key learning in relation to child protection practice in Tusla and other relevant services;

- To drive change in Tusla to ensure, to the greatest extent possible, that any systems failures associated with the serious incident/death of a child/young person are not repeated;
- To identify and commend examples of good practice within child welfare and protection services with a view to wider dissemination and replication across the system;
- To identify and promote the learning that emerges from all reviews and, in particular, to identify system wide strengths and weaknesses and use relevant findings to provide high quality and safe care to children and families using the services of Tusla, and;
- The NRP may prioritise reviews and may give immediate feedback to Tusla in individual or systemic risk which need urgent attention, as outlined under Section 7.

## 6. Principles Underpinning the Review Process

The following section sets out the principles underpinning the review process.

It is noted that the NRP has its own procedures and protocols for conducting reviews and for administrative matters, including guidelines for panel members to follow on how to go about conducting a review (known as toolkits). These procedures, as well as the work and the reports undertaken throughout the review process, are conducted and underpinned by the direction outlined within this Guidance document including the principles outlined below:

- **Independence:** The NRP and its work will remain functionally independent of Tusla and the DCEDIY.
- **Child and Young Person Centred:** The child or young person(s) that the reviews concern will be considered the most important aspect of the review. The best interests of the child shall be the paramount consideration.
- **Suitability:** The team identified for each review should consist of a range of professionals relevant to the case and who have had no involvement with the case under review.
- **Procedurally robust:** The methodology employed by the NRP in carrying out reviews, making its findings, conclusions and recommendations will be comprehensive, robust, applied consistently and have regard to similar review processes from other jurisdictions. Findings from reviews will derive directly from the information provided to reviewers, orally or in written form.
- **Fair and balanced:** In compiling its findings, the NRP will have regard to due process and the principles of natural justice.
- **Timely:** All participant services, including Tusla, will participate in the reviews in as timely a manner as possible. Reviews will be carried out and reports will be finalised and published as soon as practicable, acknowledging that certain factors such as criminal proceedings may delay completion. Immediate feedback will be provided by the NRP to Tusla on individual or systemic matters which need urgent action.

- **Driving improvement and best practice:** The reviews will identify learnings and where relevant make recommendations in order to promote ongoing reform and improvement in the child welfare and protection system. The review process will identify gaps in systems and services, as well as strengths of the system and examples of good practice where they are found. This will inform Tusla's practice and policy and its quality improvement cycle. Recommendations may also be made which apply to the policy and practice of other agencies. Key learning points will reflect best practice and research findings relevant to the case.
- **Protection of confidentiality:** Reports will be anonymised as far as possible to prevent identification of the child, young person or their family. Practitioners and managers whose work is the subject of reviews will not be identified by name but only by position. It should be possible to discuss any of the issues outlined in a public forum. In instances where confidentiality cannot be reasonably protected owing to the particular circumstances under review, the NRP may recommend to Tusla that the report or executive summary is not published, but that the relevant learnings still emerge in an anonymised form.
- **Taking account of relevant legislation and policy frameworks:** The reviews will be carried out with due regard to relevant legislation and principles of information governance.
- **Transparent and accountable:** The decisions and findings of the review should be clearly communicated to the general public where appropriate and Tusla staff so as to achieve greater transparency and accountability regarding serious incidents relating to children and young people.
- **Systemic:** The reviews will take a systems-based approach which will aim to identify issues which may arise for different services within the sector. The ability of the NRP to fully deliver on this element of the reviews relies on the cooperation of services outside of Tusla and the DCEDIY.
- **Impact:** The learning from reviews, both in terms of identified deficits and areas of good practice will inform Agency and wider systems improvement. As such the DCEDIY will have full regard to the learning from review processes and will, in collaboration with the NRP, aim to ensure that this learning is also brought to the attention of relevant departments, agencies and sectors to support improvements in policy and provision for children.

## 7. Timing and Publication of the Review

The reviews should take place and progress in a timely manner, following the receipt of the referral.

Timelines determined by the NRP in relation to the finalisation of reports should be reported by the NRP Service Manager to the Director of Quality Assurance in Tusla, including where there have been exceptional delays to a report, or where such delays are expected. There is a need to conclude matters as soon as is practicable so that the learning identified is not lost or has its value lessened, from the perspective of the child welfare and protection system of Tusla.

The arrangement between the NRP and Tusla should also support the quick and efficient identification of valid learnings at any stage throughout the review process. If any significant and evidenced individual or systemic risks, failings, or learning and recommendations are identified at an early stage of the report, the NRP should bring these to the attention of the Director of Quality Assurance in Tusla

as early as possible. Any issues that fall outside of Tusla's remit should be brought to the attention of DCEDIY by Tusla and the NRP.

The review should not interfere with any legal processes, such as a coroner's inquiry or Garda investigation, but should operate concurrently provided its operation is not affected by or impinging upon any such legal process. Nor should it interfere with the exercise of legal rights by any person or body in any such other legal processes. There will be consultation by the NRP with An Garda Síochána/Director of Public Prosecutions where there is an ongoing criminal investigation.

Tusla will, through the An Garda Síochána Liaison, establish timing of the publication of a report that may have been subject to criminal proceedings. In order not to prejudice criminal proceedings, Tusla, in consultation with An Garda Síochána/Director of Public Prosecutions, may decide to delay publishing a report in its entirety.

Should there be other processes, including HR processes, these should take place separately and must not impact on the review.

Prior to finalising a report, the NRP will provide the draft learnings and recommendations to the Tusla Director of Quality Assurance. The Director of Quality Assurance may respond to the NRP identifying any substantial factual inaccuracies where they arise, no later than 10 working days following receipt of the learnings and recommendations. The NRP will give due consideration to any issues identified and will, at its lone discretion, subsequently decide whether to revise any elements of the report. At all times this process will operate in accordance with the principle of independence as defined under Section 6 of this Guidance, ensuring the functional independence of the NRP in the performance of its functions including the production of reports and identification of findings.

Once the report has been finalised the NRP will, where relevant, make a recommendation to Tusla regarding publication of the report. The finalised report will be sent by the Chair of the NRP to the Director of Quality Assurance in Tusla and furnished to the DCEDIY.

Tusla will publish the executive summaries, or, as appropriate, the full report, of the reviews, in the absence of any legal or other constraining factors. Tusla commits to publishing an executive summary of the review as early as possible but in any event no later than three months, or as soon as practicable, after receipt of the final report from the NRP, notwithstanding any extenuating circumstances

Reviews may be published in batches where Tusla and the NRP are in agreement that such action will not impact on the timeliness of the review nor compromise public accountability or learning identified. The NRP will produce an annual report, which will be published by Tusla. A copy of the annual report as well as a presentation on relevant findings will be provided to the DCEDIY to inform relevant oversight functions and policy developments in this area.

## **8. The National Review Panel and the Review Team**

The Review Panel should consist of:

- An independent Chair and a Deputy Chair. The independent Chair and Deputy Chair should have the skill and expertise required to develop, undertake, quality assure and manage reviews within agreed timeframes.



- Panel members should be professionals from a range of disciplines and agencies with expertise in areas such as public health, medicine, mental health, psychology, social work, social care, law, law enforcement and detention. These persons may include representation from other jurisdictions.
- All Panel members should be appointed for their professional knowledge and experience of best practice and management in child protection, relevant research and policy, and their competence in analysis and report writing.

In addition:

- In order to avoid conflicts of interest, former employees of Tusla should not serve on the Panel until at least two years have elapsed since their retirement or resignation from Tusla. Furthermore, as a corollary, practitioners who are employed by Tusla directly, or by an agency on Tusla's behalf, may not serve on the Panel.
- Each review is assigned a team. The Chair will ensure the team members have the skill and expertise required to develop, undertake, quality assure and manage reviews within agreed timeframes.
- The NRP and the review team shall have adequate administrative support and accommodation available to them.
- Training should be provided by Tusla for Panel members on an annual basis as identified by the Chair and in relation to the review process, policy development, or specific professional issues.
- Remuneration of Panel members will be in accordance with all relevant guidelines and requirements for the public service as determined by the Department of Public Expenditure and Reform.
- The ability of the NRP to conduct fair and balanced reviews will be dependent on the level of cooperation given to it by all the services involved in a case.
- Tusla and the NRP will have quarterly meetings to discuss relevant matters.

## **9. Review of Guidance**

DCEDIY, Tusla, and the NRP will review this Guidance at regular intervals, not less than once every three years. In addition, in the case of this Interim Guidance, a review will take place once the future status of the NRP has been decided upon by the DCEDIY.

## **Appendix A – Role of HIQA**

HIQA has no direct involvement with the NRP, however Tusla is required to contact HIQA in relation to a number of issues that relate to the NRP:

- HIQA is required to monitor Tusla's compliance with the National Standards for the Protection and Welfare of Children 2012, and the National Standards for Safer Better Healthcare. In this regard, the 2012 Standards set out a requirement for a robust system for the review of serious incidents and systems to monitor the progress of individual serious incident reviews to ensure the review is carried out in line with all requirements.
- Tusla must report to HIQA where mandated within three working days of becoming aware of a serious incident, notifiable as major or extreme, or a death, and where the conditions as described in Section 4 have been met.
- All completed NRP reports, including the executive summaries, should be forwarded by Tusla to HIQA, once received from the NRP.
- If a decision is made to not publish a report, Tusla should inform HIQA of this and of the reasons for not publishing.



**TUSLA**

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