

# Child Abuse Substantiation Procedure (CASP)

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## To the reader

This document is a procedure in one of the many sensitive areas of work undertaken by Tusla. The main purpose is for Tusla social workers to ensure consistency in how they carry out their practice in substantiation assessments. These assessments are necessary for many reasons, including Tusla ensuring the protection of children today.

The document uses language which makes it quite formal, and this is to ensure fair procedures and respect for the rights of all.

We are aware that readers may read this document from many viewpoints. You may be doing so as a person making a disclosure of abuse, a person against whom an allegation of abuse has been made, a witness, or representative in an assessment. We want to ensure you have as much information as possible as to how this procedure works.

We have dedicated information leaflets for you if you are a person making a disclosure or a person against whom an allegation has been made, or if you are a witness to allegations. The leaflets are designed to give you a clear and concise outline of the substantiation process.

Finally, we are always here to answer your questions about this procedure. You can contact your local Tusla Area Office by visiting our website <https://www.tusla.ie/get-in-touch/local-area-offices>

In Tusla we are committed to a vision where families and communities are empowered to keep children safe and nurtured. We are dedicated to working in partnership with:

- children
- families
- communities.

We do this to make sure that children are supported, protected, and connected to people who can safeguard and promote their wellbeing.

We are working to ensure that our colleagues and leaders are supported and empowered to continuously learn and improve so that children, families, and communities across Ireland will benefit from our work and the services we provide. We will be compassionate in explaining decisions even when the decision is difficult.

We are committed to our values of:

- Trust
- Kindness
- Respect
- Empowerment.

When we interact with you during our work, we want to show that we are honest, truthful, and responsible, that we care and show compassion, treat you with dignity and fairness, and that we are willing to provide you with the best service we can.

## Foreword by the Chief Executive Officer

**On behalf of the Child and Family Agency I welcome the opportunity to provide this new Child Abuse Substantiation Procedure (CASP), which will come into operation from 27th June 2022. This replaces the previous Policy and Procedure adopted in 2014.**

Our primary role in Child Protection is the overarching provision of Section 3 of the Child Care Act 1991, to “promote the welfare of children in its area who are not receiving adequate care and protection”, and to intervene when a child or young person is at risk of harm.

Substantiation of itself is not our core objective, but it is necessary where we propose to make interventions aimed at keeping children safe today. The task of substantiation to date has been the subject of several court challenges and proceedings. The result of not only those cases but also extensive learning and improvements required that the 2014 processes be updated. The CASP is the current best-informed approach to this complex aspect of our work in the current legislative framework and the need to ensure best practice, fair procedures and many requirements, including data protection.

The investigative nature of child abuse substantiation work is complex and not a function that sits easily in the brief of child protection social workers where relationship-based approaches are essential. Nevertheless, it is one of the important tasks which we are mandated to do at this time. It is complex, challenging, and sensitive work, dealing with both current and retrospective allegations of child abuse. The CASP requires consideration of many rights and needs, and these requirements are taken on board here, always recognising our primary objective of keeping children safe today.

Children First National Guidance for the Protection and Welfare of Children (2017) affirms it is everyone’s business to protect children and young people and that we all need to do our best to keep them safe. It underlines the need for active local, regional, and national participation and multi-agency cooperation, to identify and inform us when a child or young person is at risk.

The learnings gained from legal judgements, and the invaluable feedback we received from a diverse group of sectoral stakeholders, all deeply invested in people welfare, has directly influenced the development of this new procedure. We have given our commitment to review, with them, the operation of the CASP after 12 months of operation, in the context of evolving evidence-based practice and research in this area, developing case law and legislative changes.

To ensure our approach to this work is consistent and sustainable, and in the context of our current structural reform, a dedicated CASP team will operate in each one of six new Tusla regions created.



**Bernard Gloster  
Chief Executive**

## Acknowledgements

The review process which led to the development of this new Child Abuse Substantiation Procedure (CASP) and supplementary resources were hugely dependent on the contribution and informed views of the many individuals and organisations who took part in a wide-ranging pre-implementation consultation process.

We were fortunate to have consulted with such a diverse group of sectoral interests and organisations, and with our own social work colleagues in Tusla. We do this to determine how best we could frame the new procedure, taking on board the challenges, concerns, and recommendation identified during the process. We are immensely grateful to everyone who participated and provided feedback, which involved a review of the 2014 policy and procedure for responding to allegations of abuse, to consider its shortcomings, and for working with us to arrive at a more fit-for-purpose approach to child abuse substantiation.

We acknowledge the time and consideration that individuals and organisations dedicated to the process, whether through direct participation in the consultations, or in responding to our survey and providing written submissions – the breadth and quality of the feedback was instrumental in helping us to develop and arrive at this new procedure.

It would be difficult to acknowledge every contributor to the consultation here, but broadly speaking we are thankful to individuals and organisations involved in this work, including Dr Joe Mooney, the Sector Body Groups, HSE Children First National Officers, Irish Foster Care Association, Irish Social Work Association and the Children Hospital Ireland who assisted with detailed feedback.

We also wish to thank our colleagues on the CASP National Governance Group, the CASP Planning and Implementation Group and the CASP Working Group who have worked tirelessly and conscientiously to bring this procedure and its supporting resources to fruition.

As experts in the field of child protection, we want to reassure you that we have designed and developed the most effective, thorough, and robust procedure we can within existing legal limitations and lack of legislative framework underpinning this crucial work.

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# Glossary of Terms

## How to use the Glossary

The following is a list of terms that you will read in this procedure. When reading a glossary entry, you might need to refer to the list of abbreviations on page 13, and read other glossary entries to understand the full meaning of a single entry.

**Allegation:** unproven statements declaring that something has happened.

**Area manager:** For the purposes of CASP, area manager refers to the Tusla **area manager** or their designate.

**Balance of probabilities:** Saying something is proven on ‘the balance of probabilities’ means it has been determined that it is more likely than not to have happened. This is **not** the higher standard of proof for criminal prosecution, which is ‘beyond a reasonable doubt’.

**Bona fide:** A decision/conclusion made in ‘good faith’ which is honest, accurate (based on the information available), without deliberate intent to damage the good name of the person concerned. This is the threshold used in Section 19 (1) and (2) of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 for a specified information notification to be sent to the **Garda National Vetting Bureau**.

**CASP social worker:** A **social worker** who is responsible for undertaking a **substantiation assessment** on behalf of Tusla.

**Child(ren):** A person under the age of 18 years.

**Child protection and welfare (CP&W) social worker:** A **social worker** working with **children** and families in the community.

**Child abuse categories:** Neglect, emotional abuse, physical abuse, sexual abuse – see [Children First: National Guidance for the Protection and Welfare of Children](#) (2017).

**Children first:** In the Child Abuse Substantiation Procedure (CASP) document ‘Children First’ refers to the [Children First Act 2015](#) and [Children First: National Guidance for the Protection and Welfare of Children](#) (2017).

**Conclusion:** The result of a **substantiation assessment** which provides details of the outcome reached (whether the **allegations** of abuse are **founded or unfounded**), and the reasons why this outcome was reached. Where the outcome of an assessment is founded, the conclusion will also set out the risk, if any, the CASP social worker determines that the **Person Subject to Abuse Allegations** poses to a child(ren).

In the CASP process there are two types of conclusion, a provisional and a final. **Provisional conclusion** is provided to the **PSAA** for their response.

**Final conclusion** is made following the receipt of the **PSAA**’s response to the provisional conclusion or in the absence of a response.

**Disclosure of child abuse:** When a person tells another person (for example, their therapist, teacher) that they were abused.

**Foster carer:** A full-time or part-time carer of a child(ren) who is not the child’s biological or adoptive parent, or not their legal guardian. Where a child(ren) is in the care of **Tusla** - Child & Family Agency, the foster carer looks after the child(ren) outside the child’s own home.

**Founded:** If the Final or Provisional **Conclusion** of the **substantiation assessment** includes a ‘founded’ outcome, it means it is established on the **balance of probabilities** that child abuse has occurred.

**Garda National Vetting Bureau (GNVB):** The GNVB carries out a background check on anyone who works with children or vulnerable adults. This check is called ‘vetting’. The GNVB is established under the National Vetting Bureau (Children and Vulnerable Persons) Act 2012.

**Hoax or fake referrals of child abuse:** The information available suggests the referral of child abuse received by **Tusla** is unmistakably false as the events referred to could not possibly have happened.

**Identified child or children:** Children who can be readily identified by virtue of their name or relationship to the **PSAA**.

**Identifiable children:** Children who are not individually identified but who are identifiable as belonging to a group of children with whom the **PSAA** has contact. For example: groups of children in a school. (see also ‘**Yet to be identified children**’ later in this glossary)

**Immediate serious risk of harm:** This refers to situations in the here and now where there is an impending risk of significant harm being inflicted on an **identified or identifiable child or children**. (Impending here means the risk is threatening or significant.)

**National Approach to Practice underpinned by Signs of Safety (NAP/SofS):** A safety-focused approach where **social workers** work with families and their networks to keep children safe where a risk of danger is perceived. The safety plan for the children is kept under review. It is the national approach to practice for child protection social work in Ireland.

**National Child Care Information System (NCCIS):** The National Childcare Information System (NCCIS) is a computerised recording system that provides details of professional actions in response to referrals of child protection and welfare.

**Outcome:** The decision reached as part of the **provisional and final conclusion** as to whether an allegation of abuse is **founded or unfounded**. This decision is reached on the **balance of probabilities**.

**Parent:** References to parent include a child’s legal guardian and in the case of a child in care may include **Tusla**.

**Person making a disclosure (PMD):** A person – either a child or an adult – who has made a **disclosure of child abuse**.

**Person subject of abuse allegations (PSAA):** A person – either a child or an adult – who has had **allegations** of child abuse made against them.

**Referral (of child abuse):** For the purpose of the CASP, a referral of child abuse is known as a **disclosure** (of child abuse) up to the end of stage 1. If it passes into stage 2 it is known as an **allegation** (of child abuse).

**Relevant information and documentation:** Where an assessment moves to stage 2, the **PSAA** is entitled to receive all relevant information and documentation which the **CASP social worker** has gathered during the course of the assessment. Information and documentation are relevant if they disclose a fact or facts which, on their own or together with other facts, make the **allegation** appear more likely to have happened or less likely to have happened than would be the case without that information.

**Relevant third parties:**

1. Any person who is in a position of responsibility for a child or children's safety and wellbeing. It includes someone who is in a position of direct authority over a **PSAA**, if the PSAA is employed or if they volunteer in an organisation where they may have contact with children through their work.

**Examples of third parties include:**

- The principal of a school who has authority over a teacher.  
the Chief Executive Officer of a non-governmental organisation who has authority over an employee.
  - The leader of a children's sports or activity group with authority over a volunteer, and so on. (See 'relevant organisation' in Section 2 of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012).
2. Any registration or regulatory body, such as, Health and Social Care Professionals Council (CORU), Medical Council, Teaching Council, and so on.

**Reliability and accuracy check:** The thorough examination and testing of the reliability, plausibility, and consistency of a **disclosure** a person is making. This may involve exploring the extent to which the person's **disclosure** is consistent with any available evidence and may involve (at a later date) seeking the person's response to any denials made, any alternative versions of events provided, or other issues raised by the **PSAA**.

**Retrospective child abuse:** Child abuse that an adult discloses that happened during their childhood.

**Social worker:** A professionally qualified person registered with the Health and Social Care Professionals Council (CORU) and employed to undertake a range of functions associated with the protection and welfare of children. A **social worker** is considered 'allocated' when they have a child or young person in care assigned to them in the long term. **(see also CASP social worker defined earlier)**

**Screening social worker/screening**

**team:** For the CASP, the screening team refers to the local area social worker or team assigned to screening referral received by **Tusla**. In day-to-day practice, this person or team may also be referred to as the Designated Contact Point (DCP) Team or Duty/Intake Team, depending on the local area structure.

**Substantiation assessment:** The process of examining and evaluating **allegations** of child abuse that arrives at a **conclusion** which includes an **outcome** as to whether the **allegation is founded or unfounded** on the **balance of probabilities**. If the **allegation is founded**, the **conclusion** will also determine what risk of harm to children, if any, is posed by the **PSAA**.

**Supported lodgings:** An accommodation scheme for young people aged 15 and over who are unable to live at home but are not ready to live independently. It aims to provide young people with practical and emotional assistance, while in the safety and security of a family environment. The scheme enables them to develop their independence skills so they can eventually live on their own.

**TCMS:** Tusla Case Management System is a digital system which allows users to manage and record their activities with a specific module relating to a **CASP substantiation assessment**.

**Tusla:** We are the dedicated state agency responsible for improving the wellbeing and outcomes for children.

**Unfounded:** If the **Final or Provisional Conclusion** of the **substantiation assessment** includes an 'unfounded' **outcome**, it means it is not established on the **balance of probabilities** that child abuse has occurred.

**Witness:** a person – an adult or child – who may have seen an event or may have relevant information or know something about the **disclosure** made.

**Yet to be identified child or children:** A Child or children who are not individually **identifiable** but who may be at risk in the future by reason of a specific potential risk of harm to them which Tusla reasonably suspects may come about.

## List of Abbreviations and Acronyms

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**AGS:** An Garda Síochána

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**CASP:** Child Abuse Substantiation Procedure

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**CiC:** Child(ren) in Care

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**CORU:** Health and Social Care Professionals Council

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**CP&W:** Child Protection and Welfare

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**CPWRF:** Child Protection and Welfare Referral Form

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**GNVB:** Garda National Vetting Bureau

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**NAP/SofS:** National Approach to Practice underpinned by Signs of Safety

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**NCCIS:** National Childcare Information System

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**PMD:** Person making a disclosure of abuse

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**PSAA:** Person Subject of Abuse Allegations

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**RARF:** Retrospective Abuse Referral Form

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**SORAM:** Sex Offender Risk Assessment and Management

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**TCMS:** Tusla Case Management System

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## About this Child Abuse Substantiation Procedure (CASP)

This document sets out the procedure to be followed by Tusla social workers in assessing referrals of child abuse under CASP.

We have also produced dedicated leaflets for you as a person who has disclosed abuse, or you as a person against whom an allegation has been made. The leaflets will help you to understand, in simple terms, how Tusla assesses a referral or referrals of child abuse. If you have any questions about the procedure, please contact your local Tusla area office. If you require any assistance with reading or translating the documents, we will be happy to help you.

The Child Abuse Substantiation Procedure (CASP) has four parts:

### Part A: General Principles and When to apply the CASP

This part sets out the principles for decision-making, the circumstances when the CASP is applied, the principles for keeping children safe and interagency work with An Garda Síochána.

### Part B: Procedure for responding to referrals of child abuse under the CASP

This part outlines how Tusla will respond to child abuse referrals

### Part C: Procedure for conducting reviews

This part sets out the procedure that the independent review panel will follow if a review has been requested following a final conclusion which includes a founded outcome.

### Part D: Communicating the CASP

This part sets out how we will communicate with stakeholders and when we will review the procedure.

# *Part A*

## *General Principles and When to Apply the CASP*



# 1.0

## Introduction

### 1.1 | The safety and wellbeing of the child is paramount

**Tusla treats everyone affected by allegations of abuse with fairness, dignity, and respect while also ensuring that decisions are made in line with the law, policy, and best practice.**

# 2.0

## Principles governing the procedure

### 2.1 | Tusla's Statutory Obligation

The protection and welfare of children is Tusla's primary concern. It is Tusla's statutory obligation and responsibility to promote the welfare of children under Section 3 of the Child Care Act 1991 and under Section 8 (1)(b) of the Child and Family Agency Act 2013.

In meeting this obligation and responsibility, where there is a need to share information with a relevant third party to protect an identified child or yet to be identified child or children from harm, Tusla must carry out an assessment of allegations of child abuse in line with fair procedures. This is called a 'substantiation assessment' – an assessment that examines and weighs up all the evidence and decides if the allegation is founded or unfounded on the balance of probabilities. If the allegation is founded a determination is made that the person who is the subject of the abuse allegations poses a potential risk to a child or children. Tusla calls this process the CASP – Child Abuse Substantiation Procedure.

When carrying out a substantiation assessment, the CASP social workers must take every care in checking the reliability and accuracy of the allegations and in considering the response from the person who is the subject of the abuse allegations.

Information that is to be shared with a relevant third party must be accurate and specific, rather than general. A relevant third party must only be provided with the minimum amount of information necessary to protect a child or children.

Tusla must also abide by the relevant Data Protection legislation when carrying out a substantiation assessment, when sharing information as part of the substantiation assessment, and when contacting relevant third parties.

Separate guidance on data protection obligations is contained in the CASP Data Protection Guidance, which should be referred to by CASP social workers throughout their work and especially when making decisions on information sharing with the PMD, the PSAA and relevant third parties.

### 2.2 | The following principles should inform decision-making:

- Where there is an immediate serious risk of harm to any child from a PSAA, Tusla must take steps to protect the child or children's safety. This may include contacting a relevant third party if such a measure is necessary to secure their immediate safety needs.
- The guiding document – National Guidance for the Protection and Welfare of Children (2017) – must always be followed. (The short title Children First National Guidance will be used in this document.) If a child or children are determined to be at immediate serious risk of harm (see glossary), their immediate safety needs take priority over consideration of the right to inform the person who is the subject of the abuse allegations (PSAA). This may happen if there is a reasonable concern that contacting the PSAA first may place identified or identifiable children at further risk of harm.
- As part of a substantiation assessment, the CASP social worker, must determine if the allegations are founded or unfounded on the balance of probabilities. If they determine that the allegations are founded, they must determine if the PSAA poses a risk of harm to a child or children.

- The CASP Social worker must remain impartial throughout the assessment process.
- While the CASP social worker must determine if the allegation is founded or unfounded, the purpose of the substantiation assessment is not about the administration of justice but the protection of children. The CASP social worker 'should not stray into attempting to vindicate the complainant or to sanction the PSAA' (J v CFA [2020] IEHC 464).
- The substantiation assessment should be undertaken by a CASP social worker who is not known to the PSAA or the PMD, and who has not worked with either party previously.
- Tusla must consider the age and stage of development of a child PMD and child PSAA when engaging with them and their parents in a substantiation assessment.
- A child PMD or child PSAA should be accompanied by a parent or other responsible adult, where appropriate, in any substantiation assessment interviews.
- An adult PMD or PSAA may be accompanied by a support person in any substantiation assessment interviews.
- If situations arise that are not expressly mentioned in this CASP document, practitioners and their line managers should use their professional judgement and knowledge. If necessary, they should seek appropriate guidance from relevant Directorates within Tusla.
- To support positive communication with the PMD and PSAA, the CASP social worker should make initial contact by telephone where possible, taking care that they are speaking to the correct person. For example, there may be two people with the same name living in the same house.

### 2.3 | Importance of the quality of the substantiation assessment

It is important for the CASP social worker to demonstrate that they have carried out the assessment in line with their statutory duties and functions relevant to child protection, fair procedures, and data protection. They must also demonstrate that they have duly considered the factors set out in this CASP.

Providing fair procedures to a PSAA is not a matter of choice – it is a fundamental right under natural justice and constitutional law (see also Children First National Guidance 2017, page 47).

As social workers manage situations every day that could compromise an individual's right to fair procedures, it is essential for social workers to understand the principles of fair procedures and to always apply them.

To support fair procedures, it is best practice that the social worker who assesses disclosures made by the PMD also undertakes the substantiation assessment of the PSAA's response to the allegations.

The response to a disclosure of abuse

made by an adult that they experienced abuse as a child must be as robust as the response provided to children who make allegations of abuse because:

- there is sufficient possibility that a person who abused a child or children in the past is likely to have continued abusing children, and may still be doing so (Calder et al. 2000; Pritchard 2004; Corby 2006; Crosson-Tower 2013).
- the prospect of criminal prosecution remains open to An Garda Síochána.

### 2.4 | Simultaneous and consecutive substantiation assessments

Where referrals of child abuse are received from multiple PMDs regarding the same PSAA, the disclosure of each PMD will be subject to a separate assessment. The same CASP social worker may undertake each assessment, either at the same time or consecutively, if the information in one case is relevant to another case. In these circumstances, the PSAA must be provided with the relevant information and documentation at the start of stage 2 of the procedure and have an opportunity to respond.

A founded outcome in one case should not be considered grounds for reaching a founded outcome in another case.

## 3.0

### When to use the Child Abuse Substantiation Procedure (CASP)

#### 3.1 | Scope

CASP is designed to provide a framework for social workers in assessing allegations of child abuse made against an individual which raise concerns that an identified or yet-to-be-identified child or children may be at potential risk of harm. The procedure sets out the principles that CASP social workers are expected to follow, to ensure fair procedures are given to PSAAs when the CASP social worker undertakes a substantiation assessment of allegations of child abuse.

A CASP assessment will apply to cases where a referral of child abuse meets the following criteria:

- The referral of child abuse meets the Children First threshold of reasonable grounds for concern and the definition of child abuse.
- The screening social worker is satisfied that the information in the referral is not a **hoax or fake**.
- The referral meets one of the criteria, as set out in Table 1: This table sets out the situations in which CASP will apply to disclosures of child abuse.

Where a CASP social worker determines that an identified child or children is at an immediate serious risk of harm during a substantiation assessment, a referral will be made through the Tusla portal to notify the relevant area of the risk of harm. It is the responsibility of the screening social worker or relevant child protection and welfare social worker to take immediate action to ensure the child or children are safe from harm. (See section 4.0; A child's right to be safe from harm).

#### 3.2 | Criteria for applying CASP to allegations of child abuse

When a disclosure of child abuse is received, Tusla will apply the National Approach to Practice underpinned by Signs of Safety (NAP/SofS). **The NAP/SofS, along with its connected tools provides a helpful framework** to ensure the safety and welfare needs of children are met.

This framework helps everyone involved with a family (the child and their family, social workers, professionals and so on) to jointly discuss and record the concerns and worries that exist within the family that have led Tusla to be concerned about their child, as well as strengths and existing safety. This framework is especially helpful to the child in helping them to understand and engage with networks and safety planning.

The NAP/SofS is a child-centred process that aims to maintain the safety and protection of an identified child by keeping their safety network informed and up to date about Tusla's concerns and the family's strengths.

Tusla interventions under the NAP/SofS aim to build on the existing strengths of the family and offer support to help the family overcome any difficulties and to ensure that the child is safe. The best interests of the child should always be paramount.

The substantiation assessment is a separate process to the NAP/SofS. The substantiation assessment determines, on the balance of probabilities, whether the allegations of abuse are founded or unfounded. Where the conclusion of the substantiation assessment includes a founded outcome, Tusla also determines if the PSAA poses a risk to a child or children and if that information should be shared with a relevant third party to safeguard children.

**Table 1:** This table sets out the situations in which CASP will apply to disclosures of child abuse.

Type of disclosure	Situations where CASP will apply
Where a disclosure of child abuse is made by a child against a PSAA, who is their parent or an adult who lives in the <b>same household as the child PMD</b> .	If the PSAA is engaged or becomes engaged in any activities outside of the home which would allow them to have access to children, and the nature of the allegations gives rise to a concern that it may be required to share information with a relevant third party outside of any Signs of Safety network. For example, activities outside the home might include any employment, self-employment, voluntary work, or other activity which consists of care or supervision of children
Where a disclosure of child abuse is made by a child against a PSAA, who is their parent or other adult (including non-family members) who lives <b>outside of their household</b> .	
Where a disclosure is made by a child in the care of Tusla against their parent(s).	
Where a disclosure of Retrospective child abuse is made against a PSAA.	or
	Where the NAP /SofS cannot be applied and the facts are such that it is reasonable to anticipate that any potential child protection risk will not be dealt with in court childcare proceedings.
	or
	If the NAP/SofS cannot be applied because the PSAA does not have contact with identified children,
Where a disclosure of child abuse is made by a child against another child	If the child PSAA has contact with children who are not safeguarded by any current safety planning and the nature of the disclosure gives rise to a concern, then it may be required to share that information with a relevant third party
Where disclosure is made against: Relative and general foster carers, Adult children who live in the foster carers' household Adults who live in the foster carers' household Supported lodgings provider	The CASP applies to these categories of people because Tusla has placed children in their care or in their household and Tusla has a duty to assess the disclosure to determine if the allegations are founded or unfounded.

### 3.3 | Where the PSAA is under 18 years of age and substantiation of the disclosure(s) is required.

In general, disclosures of child abuse made by a child against another child will be responded to under the NAP/SofS. However, the CASP will be applied if the child alleged to have carried out the abuse has contact with children who are not safeguarded by any current safety planning and the nature of the disclosure gives rise to a concern that information may need to be shared with a relevant third party.

Research shows that 37 per cent of child sexual violence reported by children to specialist sexual violence services in Ireland in 2012 related to allegations against people under the age of 18 years (RCNI 2014).

When responding to disclosures of abuse made by children against children, Tusla's key considerations include:

- issues of care and protection for both the child PMD making the disclosures and the child alleged to have carried out the abuse.
- the undertaking of child protection procedures and safety planning for the child alleged to have carried out the abuse.
- prioritising the welfare of the children either as PMD or a child alleged to have carried out the abuse.
- early therapeutic intervention with children who abuse other children, which is essential in assisting a child or young person's healthy sexual development.

A child alleged to have abused another child may require extensive help and support from their parents and therapeutic services, such as counselling. In this situation, parents should be fully supported, properly advised, and offered therapeutic support themselves.

A child alleged to have abused another child must be afforded fair procedures in the same way as any other person. Parents should be fully informed and involved, as appropriate, so that they can properly support their child through the substantiation assessment process.

### 3.4 | Where a PSAA has a conviction for child abuse or is the subject of a previous founded outcome.

The CASP can apply where a disclosure has been received against a person who has:

- previously been convicted of a criminal offence against a child or children that includes abuse as defined by Children First (see Section 3.5).
- been the subject of a founded outcome from a previous substantiation assessment, including after any review.

In these instances, the CASP will apply if:

- the CASP social worker is of the view, having considered the detail of the new disclosures and any potential change to the appreciation of risk of harm, that the nature of the new disclosure may present the need to share information with a relevant third party who is not already aware of Tusla's concerns, together with one of the following three circumstances:

1. The NAP/SofS is being applied but the PSAA is engaged in activities outside of the home which would allow them to have access to children, and the nature of the disclosure gives rise to a concern that information may need to be shared with a relevant third party outside of any Signs of Safety network. For example, activities outside of the home might include any employment, self-employment, voluntary work, or other activity which consists of care or supervision of children.

**Or**

2. The NAP/SofS cannot be applied, and the facts are such that it is reasonable to anticipate that any potential child protection risk will not be dealt with in court childcare proceedings.

**Or**

3. The NAP/SofS cannot be applied because the PSAA does not have contact with identified children

### 3.5 | Consideration of risk in relation to people who have previously been convicted of a criminal offence against a child or children

If Tusla receives a disclosure of child abuse about a person who has been convicted of a criminal offence against a child or children, there may be circumstances where Tusla does not have a measure of any risk of harm they may pose to children. Tusla should seek information to understand any risk of harm the PSAA may pose to children. If Tusla cannot gain an understanding of any potential risk of harm posed, a new substantiation assessment must be carried out, as appropriate.

The social worker should keep in mind that the new PMD may have information that Tusla is not aware of that may require

a meeting with the PSAA, especially for the purpose of safety planning for identified or identifiable children.

Tusla's Sex Offender Risk Assessment and Management (SORAM) co-ordinator should be contacted to enquire if the PSAA is engaged in SORAM. They should be asked about any potential risk of harm posed by the PSAA, about details of any monitoring and management arrangements in place for the PSAA, and agree any actions that need to be taken including:

- identifying children at risk of harm,
- visiting the PSAA,
- informing any relevant third parties. (see Section 4 A Child's right to be safe from harm and Section 21 Notifying a third party after a founded outcome.)

Once the CASP preliminary enquiry stage is completed, and if the CASP social worker cannot determine whether the information in the new referral changes their understanding of any risk of harm posed by the PSAA, then a new substantiation assessment must be undertaken, if appropriate. If a substantiation assessment does not proceed, the PMD must be advised in writing of Tusla's decision. Tusla's data protection obligations to the PMD and PSAA still apply as detailed in the CASP Data Protection Guidance.

Tusla must notify An Garda Síochána, without delay, of child abuse allegations where Tusla suspects that a crime has been committed, and a child or children has been wilfully neglected or physically or sexually abused, even if Tusla is not pursuing a substantiation assessment.

### 3.6 | Notes on the decision and the reasons for applying, or not applying the CASP

The decision and the reasons for applying, or not applying the CASP should be fully recorded on the relevant record.

## 4.0

### A child's right to be safe from harm

#### 4.1 | The safety and wellbeing of the child is always paramount.

Children First Guidance sets out that in a situation where a child or children are determined to be at immediate serious risk, Tusla will take all necessary steps to ensure that effective protective measures are taken to safeguard their welfare. This may involve sharing information with relevant third parties so that they, as responsible adults, can take the necessary protective action (p. 46 Children First 2017). This may include sharing information with relevant third parties prior to informing the person who has allegedly caused the harm.

All Tusla social workers who are notifying relevant third parties of an immediate serious risk of harm to a child or children must consider the following:

**When considering a referral of child abuse**, the screening social worker must determine if the threshold for immediate serious risk of harm is met. In so doing, they also decide what urgent actions may be needed to ensure safe care for the child or children. A child might be considered 'safe' when there are no immediate threats of serious harm present, and the exposure to potential risk of harm to the child can be managed. (See definition of 'child abuse' in the glossary.)

In cases of referrals of physical neglect, emotional abuse and actual or potential physical harm, a social worker must decide on the degree of risk of harm that may be present when a referral is received.

While the risk of physical abuse may pose an immediate serious risk of harm to a child or children, social workers will, depending on the nature of the physical abuse referrals, make a professional judgement on the extent to which a referral requires an urgent response.

Allegations which pass a screening standard as detailed in Section 3.0 (When to use the Child Abuse Substantiation Procedure), which involves people who have been convicted of sexual abuse, physical abuse, or a wilful neglect crime against a child or children, may represent a serious child protection concern, and, as such, should be acted on immediately.

A substantiation assessment by a CASP social worker will often take place at the same time as child protection services are being provided to an identified child or children by a Child Protection & Welfare social worker.

Where a child or children are at risk of harm in their home from family members, and unless it is assessed that it would put them at further risk of harm, the parents of the child(ren) should always be informed about and consulted with on any safety planning. If the child or children's safety cannot be secured with family members, then the screening social worker or Child Protection & Welfare social worker must consider if emergency court action is necessary.



#### Key information

Any form of child sexual abuse or exploitation meets the threshold for significant harm. Social workers must ensure that a person who is the subject of an allegation of child sexual abuse who is in regular contact with children, either does not pose an immediate serious risk of harm, or, that any identified or reasonably suspected risks of harm to the child can be managed.

## 4.2 | Tusla's duty to act if a child is at risk of harm

No matter what stage the substantiation assessment is at, if it is determined that a child is at immediate serious risk of harm, Tusla must take immediate action to ensure the child is safe from harm. This action may include asking the PSAA to remove themselves from the situation that poses the immediate serious risk of harm.

In urgent situations, the social worker may be required to contact a relevant third party prior to the PSAA being told of the allegations or prior to the PSAA being told of the immediate serious risk of harm they present. If the concern that an immediate serious risk of harm can only be adequately managed by informing a relevant third party, the reasons for this decision should be carefully recorded.

If a relevant third party is notified before informing the PSAA of the allegations, it must be on the basis that there is:

- a reasonable concern that contacting the PSAA first may place specific or identifiable children at further risk of harm or

- a reasonable concern that because of ongoing contact between the PSAA and identifiable children, it is necessary for Tusla to take steps to immediately protect children (such as the notification of a relevant third party).

If the social worker determines that the immediate serious risk of harm can only be adequately managed by informing the relevant third party, they must do so even if the PSAA objects.

The screening team will undertake this action for identified children, whereas the CASP social worker will undertake this action for identifiable children (for example, groups of children in a school) where a child is determined to be at immediate serious risk of harm during a CASP assessment.

### The following actions should be followed when relevant third parties are being notified:

- Determine what level of co-operation is to be sought from the PSAA (and their parents if the PSAA is a child) in relation to any safety planning. Arrange to meet with the relevant third party with a colleague.
- Provide written information about the nature of the concerns to the relevant third party. Information that is to be shared with a relevant third party must be accurate and specific rather than general. A relevant third party must be provided only with the minimum amount of information necessary to ensure the protection and well-being of children in their care or for whom they have responsibility. The exact nature of the information to be provided to the relevant third party should be agreed in advance with the relevant social worker's line manager.
- Inform the relevant third party in writing that no conclusion has been reached in respect of the validity of the concerns, and that this will issue when the substantiation assessment is complete.



### Key information

Careful consideration should always be given if a situation allows for the PSAA (and their parents if the PSAA is a child) to be informed of the allegations where there is a determination of an immediate serious risk of harm to a child or children. If so, the PSAA should be given the opportunity to remove themselves from the situation which causes the concern before any action is taken to inform a relevant third party. If it is determined that relevant third parties must be informed and, where possible, a PSAA (and their parents if the PSAA is a child) should be given the opportunity to inform the relevant third party themselves before the social worker contacts the relevant third party. The social worker should consider a feasible timeframe, always having regard to the paramount importance of keeping children safe from harm and abuse.

- Advise the relevant third party in the letter that the decision to inform them of the child protection concerns, before the completion of this substantiation assessment, is because it is considered necessary from a child protection point of view.

### Required practice for social workers communicating with third parties

The social worker will:

- following consultation with their line manager, seek advice, if necessary, from Tusla's Office of Legal Services on the content of a written communication with a relevant third party.
- confirm that Tusla's role is to consider if the response and actions taken by the relevant third party are enough to protect identified or identifiable children, or if Tusla needs to act itself to protect the child or children concerned. Tusla cannot direct relevant third parties on steps to be taken.
- in urgent situations where it is not possible to provide the information in writing due to the level of risk identified, should orally provide the information and follow-up in writing. Under no circumstances should a child be exposed to immediate serious risk of harm pending social work intervention. In cases of emergency, where it is determined that a child(ren)

is at immediate serious risk of harm and urgent protection is required, contact with An Garda Síochána should be considered.

- discuss with the relevant third party the steps that they will take to ensure the ongoing safety of any child or children under their care or responsibility.
- document the above discussion.
- obtain a written copy of the relevant third party's plan to ensure the ongoing safety of any child(ren) under their care or responsibility. For identified children, a record of this plan is kept on the child(ren)'s file on NCCIS. For identifiable children, a copy is kept on the PSAA's file on TCMS.

Where a relevant third party has been informed of the concerns before the conclusion of the substantiation assessment is complete, the CASP social worker must inform the relevant third party in writing of the outcome, when a final conclusion is reached. Also, where relevant, the social worker should notify them of any child protection concerns.

If the substantiation assessment does not go ahead because no continuing reasonable grounds for concern exist and further assessment is not required, the relevant third party must be informed that the assessment has not gone ahead and be given the reason why.

#### 4.3 | Follow-up actions in respect of a relevant third party after immediate protective action is taken

Where a social worker has met with the relevant third party and informed them in writing of the concerns, they should follow up to:

- confirm in writing the child protection action/co-operation sought for the duration of the substantiation assessment
- fully document the decisions made and the rationale for the steps taken
- inform An Garda Síochána – if they are already involved in the case – of any safety arrangements agreed with a relevant third party for the duration of the substantiation assessment.

#### 4.4 | Tusla's responsibility where a relevant third party has been informed of immediate serious risk of harm to a child before the substantiation assessment has been completed.

It is Tusla's responsibility to seek to ensure the steps being taken by a relevant third party to keep children safe during a substantiation assessment are adequate. Tusla is satisfied when the actions being taken by a relevant third party adequately provide for the ongoing safety of any children in their care or children they are responsible for. Tusla cannot direct relevant third parties on steps to be taken.

Where the PSAA is employed in an area where they have contact with children and their employer is making decisions about the employee's working arrangements or employment status, it is important that the social worker makes clear to the employer that any related decisions are the employer's alone. The social worker's role is to indicate if the plan to protect the child is adequate.

Having advised the relevant third party of their responsibility, the relevant social worker should keep in contact with the relevant third party during the period of the substantiation assessment to reinforce the importance of the safety arrangements.

If the relevant third party is unable or unwilling to take steps to keep children safe, to meet statutory obligations, the social worker engaging with them will need to act. This means deciding on actions that may need to be taken to keep children safe from harm. To do this independently, that is, without the co-operation of the relevant third party, this may include:

- considering applying for childcare court orders,
- contacting parents or with children or young people themselves and take any other steps that are deemed necessary to keep children safe.

## 5.0

### Allegations against a foster carer and supported lodgings provider

Where allegations of child abuse are made against foster carers and supported lodgings providers, Tusla will treat all parties with fairness, dignity, and respect while also ensuring that decisions are made in line with the law, policy, and best practice.

#### 5.1 | The right of the child to be safe from harm

If a child in foster care or in supported lodgings is determined to be at immediate serious risk, Tusla will take all necessary steps to ensure the child's immediate safety.

Please refer to Section 4 - A child's right to be safe from harm.



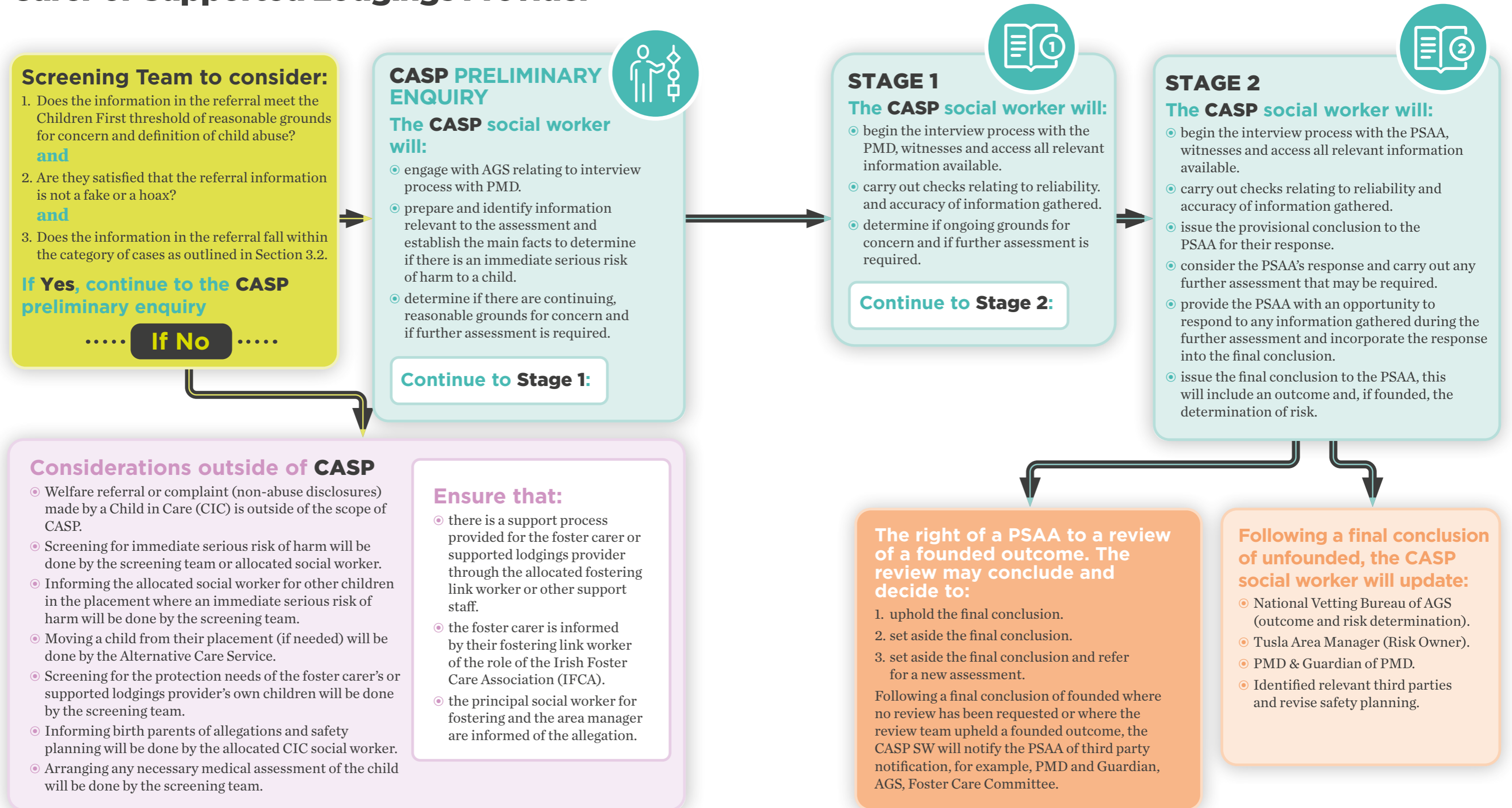
#### Key information

##### 5.2 | Issues specific to the foster parents and supported lodgings

- All disclosures made against foster carers and supported lodgings providers that meet the threshold criteria for the CASP will be subject to a substantiation assessment.
- Referrals that do not meet the threshold criteria for the CASP should be considered in the context of a potential welfare concern, a complaint, or a difficulty in placement and these should be notified to the relevant social work team, that is, the children in care team or the fostering team.
- Where safety planning is required, the screening team will inform the social worker(s) allocated to any other children in the placement.
- The child's allocated social worker will inform the birth parents of the disclosure made by their child and of the safety planning being taken in respect of their child.
- The CASP social worker undertaking the substantiation assessment will not be the child's allocated social worker.

5.3 | Summary illustration of CASP relating to allegations against foster carers and supported lodgings providers

# Referral of alleged abuse against Foster Carer or Supported Lodgings Provider



#### 5.4 | Decisions and actions about a child in care

When a disclosure is made against a foster carer or a supported lodgings provider, the relevant social work teams will decide on actions that need to be taken. This may include but will not be limited to:

- screening for immediate serious risk of harm to the child which will be done by the screening social work team.
- screening for immediate serious risk of harm to other children in placement, which will be done by the screening social work team.
- informing the allocated social worker for any other children in the placement where an immediate serious risk of harm is identified in respect of those children. This will be done by the screening social work team.
- moving a child from their placement if there is an immediate serious risk of harm identified. Arrangements for this will be made by the Alternative Care Service.
- screening for the protection needs of the foster carer's or supported lodgings provider's own children. This will be done by the screening social work team.
- informing the birth parents of the disclosure and related safety planning, which should be confirmed to them in writing. This will be done by the social worker who is allocated to the child in care, within three working days, unless to do so would place a child at risk of harm or prejudice an investigation by An Garda Síochána.

- arranging any necessary medical assessment of the child will be done by the screening social work team.

When a disclosure has been made against a foster carer or supported lodgings provider, ensure that:

- there is a support process for the foster carer or supported lodgings provider through the allocated fostering link worker or other support staff.
- the foster carer should be informed by their fostering link worker of the support role of the Irish Foster Care Association.
- the foster carer or supported lodgings provider are afforded fair procedures as per the CASP.
- the principal social worker for fostering is informed of the disclosure by the fostering social work team leader.
- the area manager is informed of the disclosure by the principal social worker for fostering.
- the CASP social worker will communicate the final conclusion of a substantiation assessment to the child's allocated social worker, the fostering link social worker, the principal social worker for fostering, and the area manager.

## 6.0

### Inter-agency co-operation between Tusla and An Garda Síochána

#### 6.1 | Introduction

Tusla and An Garda Síochána share the objectives of ensuring the safety and protection of children from abuse. However, they have separate but complementary roles in this regard. In conducting a substantiation assessment, Tusla's role is quite distinct from that of An Garda Síochána. Tusla's role is the protection of children; An Garda Síochána's role is the investigation and detection of crime.

However, the practice of both agencies is always child-centred, and the safety and wellbeing of the child is paramount.

An Garda Síochána and Tusla, each maintain the policy that while the requirements of a criminal investigation must be fully considered by both agencies in any joint planning, the protection of a child is paramount and therefore, the child's safety and welfare in this regard always take priority (*see page 47, Children First National Guidance*). Tusla must not compromise its statutory obligations to protect children if it believes that the position taken by An Garda Síochána is not in the best interests of the child. Decision-making in this regard must always be sanctioned by a Tusla senior manager (a CASP principal social worker). Following that, the relevant An Garda Síochána Superintendent must be informed and, where possible, given the opportunity to respond in advance of any planned independent Tusla actions.

Given the potential of competing priorities between Tusla's child protection and welfare obligations and An Garda Síochána's criminal investigation, liaison between the two agencies is essential. The *Joint Working Protocol for An Garda Síochána/Tusla – Child and Family Agency Liaison* (from here on known as Joint Working Protocol) sets out the joint working arrangements An Garda Síochána and Tusla must follow. Several of the main activities that support this joint working approach are set out below.

#### 6.2 | Notifying An Garda Síochána

**Children First** provides that, where Tusla suspects that a crime has been committed and a child has been wilfully neglected or physically or sexually abused, it will formally notify An Garda Síochána without delay (*Children First National Guidance 2017, page 42*). To action this, the CASP Social worker should follow the procedure set out in the *Joint Working Protocol* and complete the required notification form.

Where the PMD (and their parents if the PMD is a child) has requested anonymity from Tusla or advised Tusla that they do not want contact with An Garda Síochána, Tusla is still obliged to notify An Garda Síochána where it suspects that a crime has been committed and a child has been wilfully neglected or physically or sexually abused. However, Tusla will inform An Garda Síochána of the PMD's requests for anonymity and their wish not to be contacted by An Garda Síochána.

#### 6.3 | Enquire if either the PMD or the PSAA is known to An Garda Síochána

If Tusla receives a referral of child abuse, it should contact An Garda Síochána to find out if the PMD has made a complaint about the PSAA and if a statement has already been made. Where the referral to Tusla indicates that a statement has been made to An Garda Síochána, the CASP social worker should confirm with them that this is the case.

Details of the PSAA should also be shared with An Garda Síochána. The CASP social worker should ask An Garda Síochána to confirm if any similar referrals or convictions of abuse against children are held on record in relation to that PSAA. This will assist with deciding if a CASP substantiation assessment needs to be carried out in respect of the PSAA who may have a conviction for child abuse.



#### 6.4 | Tusla and An Garda Síochána Strategy Meeting

It will be necessary to hold a strategy meeting between Tusla and An Garda Síochána (see section 9.2, *Joint Working Protocol*) to jointly plan any direct actions that are to be taken where a criminal investigation and a substantiation assessment are to happen at the same time.

A decision may be made to defer contact with the PSAA and any relevant third party until after any criminal investigation or other action has been concluded (if no identified child is determined to be at immediate serious risk of harm). It is not always necessary or appropriate to defer taking steps when a criminal investigation is ongoing. The CASP social worker should discuss with their line manager, any request from An Garda Síochána to delay action.

#### 6.5 | Specified Information Notifications to the GNVB

A CASP social worker may be obliged at any point in a child abuse substantiation assessment to send a specified information notification to the GNVB where the social worker has a bona fide concern that a person may harm a child or put a child at risk of harm [Sections 19, (1) & (2) National Vetting Bureau (Children and Vulnerable Persons) Act 2012]. The specified information notice contains information regarding the concern of harm to a child or a finding of harm to a child. The threshold for a bona fide concern is lower than the threshold used to determine a finding of founded on the balance of probabilities. The fact that a CASP substantiation assessment is being undertaken is not sufficient grounds to warrant completing a specified information notification to the GNVB. This decision remains with the CASP Social worker.

Specified information notifications to the GNVB are statutorily required and do not compromise a person's access to fair procedures because:

- specified information notifications are made to the GNVB under legislation for information-gathering purposes.
- the Chief Bureau Officer affords a person with fair procedures before any information is released by the GNVB to a third party.
- a social worker can inform the GNVB of the need for correction or amendment of information contained in a specified information report at any point during the assessment or on its conclusion.
- when a specified information notification is being made before the final conclusion of the assessment is reached, the GNVB will be notified that the assessment is ongoing and no determination on the concern has been made.

Before a specified information notification is made, the PSAA (and their parents, if the PSAA is a child) must be informed of Tusla's concern and its intention to notify the GNVB of it.

While specified information notifications may be made before an assessment is completed, this should only happen when a bona fide concern is evident or where an assessment cannot progress to final stages but a bona fide concern has been established. If completion of a specified information notification takes place before the conclusion of an assessment, the GNVB must be updated with the final outcome of that assessment when it has been reached.

*See Tusla Policy and Procedure for submission of Specified Information notifications to the National Vetting Bureau – PPPG29/2017*

#### 6.6 | Co-operation with policing authorities outside the Republic of Ireland

In certain circumstances, the CASP social worker, in consultation with their line manager, may consider it appropriate to request relevant information from a police force outside of the Republic of Ireland, relating to criminal conviction(s) for offence(s) against a child or children. Where the CASP social worker received information from another jurisdiction about a criminal offence committed against a child or children, they must be satisfied that the details of the offence are within the definition of abuse as per Children First (2017).

Before any communication with or request issued to a police force outside of the Republic of Ireland, the CASP social worker should:

- confirm if An Garda Síochána has relevant information that has been shared by a police force from another jurisdiction.
- establish if requests for specific, relevant information may be made by An Garda Síochána through Europol and or Interpol mechanisms.
- consider if information may be sought through International Social Services (ISS). Such requests should be agreed with ISS and submitted along with the PSAA's identifying information. This information should include full name, previous identities or pseudonyms, date of birth, and previous address(es).

The CASP social worker may be required to make a formal submission through the respective police force's request mechanism procedure or designated officer and provide identifying information.

Before any written reports or communication are issued to the Tusla CASP social worker, the police force in the identified jurisdiction should be advised fully of the CASP process. They should be advised that all relevant information and documentation will be shared with the PSAA in accordance with fair procedures, if the assessment moves to stage 2.

## 7.0 | Timelines for responses by Tusla area office, inclusive of Data Protection considerations



## SCREENING

Type of Process	CASP Timelines and Actions	Data Protection Consideration
Report received from PMD	Complete screening process within 1 Day of receipt of disclosure	<p><b>Inform the PMD at the time of collecting their data, about:</b></p> <ul style="list-style-type: none"> <li>• how their data shall be processed,</li> <li>• their rights as data subjects and</li> <li>• who they can contact to manage their rights</li> </ul> <p><b>Issue the PMD with:</b></p> <ul style="list-style-type: none"> <li>• an information leaflet</li> <li>• the CASP Data Protection Notice together with support for any queries they may have.</li> </ul>
PSAA data processing		<p>Within a reasonable period but no later than one month, inform the PSAA through a CASP Data Protection Notification letter that their data is being processed by Tusla*.</p> <p>Refer to the CASP Data Protection Guidance to guide decision making. Ensure that the rationale for applying a restriction to the scope of data subjects' rights is clearly stated in the record.</p>



## CASP PRELIMINARY ENQUIRY

Type of Process	CASP Timelines and Actions	Data Protection Consideration
Initial contact made with PMD	<p>Within 14 days* of receipt of allegation</p> <p>* Subject to the availability of the PMD</p>	<p><b>Keep the data subject informed about:</b></p> <ul style="list-style-type: none"> <li>• how their data is processed</li> <li>• their rights as data subjects by continuing to make the CASP Data Protection Notice available to them.</li> </ul> <p>Verbally explain the process and answer any questions they may have.</p> <p>Seek support from the Data Protection Unit if required.</p>
PSAA data processing		<p>If the CASP Data Protection Notification letter has not already been sent to the PSAA telling them that their data is being processed by Tusla, send it at this stage*.</p> <p>Refer to the CASP Data Protection Guidance to guide decision making. Ensure that the rationale for applying a restriction to the scope of data subjects' rights is clearly stated in the record.</p>

\*There are exceptions to the requirement to provide this information to the PSAA where to do so would for example, place a child at immediate serious risk or would, in the opinion of An Garda Síochána (AGS), jeopardise a criminal investigation.



## STAGE 1

Type of Process	CASP Timelines and Actions	Data Protection Consideration
Completion of Interview with PMD and Witnesses	<p>Within 60 days – extended to 90 days* from the date the CASP social work team leader makes a decision to move to Stage 1</p> <p>*with social work manager agreement where complexity of substantiation investigation requires extension.</p> <p>A decision to proceed to stage 2 must be made within these specified timeframes.</p>	<p><b>Where relevant keep the data subject informed about:</b></p> <ul style="list-style-type: none"> <li>• how their data is processed</li> <li>• their rights as data subjects by continuing to make the CASP Data Protection Notice available to them.</li> </ul> <p>Verbally explain the process and answer any questions they may have.</p> <p>Seek support from the Data Protection Unit if required.</p> <p>If the CASP Data Protection Notification letter has not already been sent to the PSAA telling them that their data is being processed by Tusla, send it at this stage.</p> <p>Refer to the CASP Data Protection Guidance to guide decision-making. Ensure that the rationale for applying a restriction to the scope of data subjects' rights is clearly stated in the record.</p>



## STAGE 2

Type of Process	CASP Timelines and Actions	Data Protection Consideration
<b>Initial contact with the PSAA</b>	<p>Issue TCMS letters to PSAA (arranging contact) seeking the PSAA's engagement and arranging a meeting to provide them with the relevant information and documentation.</p> <p>This letter should be issued within 30 days from the date the CASP social work team leader makes a decision to move to Stage 2.</p> <p>The PSAA has 14 days to respond to this letter.</p> <p>If the PSAA does not make contact, issue a second letter giving them a further 14 days following each letter to respond if they live in Ireland and 21 if they live outside Ireland.</p> <p>If the PSAA does not engage following two letters, issue the TCMS letter to the PSAA outlining the allegation.</p>	<p>Advise PSAA that Tusla is in receipt of information of a child protection concern in respect of them.</p> <p><b>Inform the PSAA at the time of collecting their data, about:</b></p> <ul style="list-style-type: none"> <li>• how their data shall be processed,</li> <li>• their rights as data subjects and</li> <li>• who they can contact to manage their rights</li> </ul> <p><b>Issue the PSAA with:</b></p> <ul style="list-style-type: none"> <li>• an information leaflet</li> <li>• the CASP Data Protection Notice together with support for any queries they may have.</li> </ul>
<b>Initial meeting with the PSAA and providing them with the details of the allegation</b>	<p>Meet with the PSAA and provide the relevant information and documentation to the PSAA within 90 days from the date on which a decision to proceed to Stage 2 was made</p> <p>- extended to 120 days with social work manager agreement, where complexity of substantiation investigation requires extension.</p>	

Type of Process	CASP Timelines and Actions	Data Protection Consideration
<b>Obtaining the PSAA's response to the allegations</b>	<p>Where the PSAA attended the initial meeting, they should provide a response to the allegations within 28 days*.</p> <p>Where the PSAA does not attend the initial meeting and the follow-up letters have been issued, the PSAA has 28 days to provide a response to the allegations if they live in Ireland and 35 if they live outside Ireland.</p> <p>*This can be extended upon reasonable request from the PSAA</p>	<p>Minimise disclosure of other data subjects' personal data; and minimise the risk of misuse of the data. Ensure secure delivery of the data to the PSAA to minimise the risk of a data breach.</p>
<b>Further investigation following receipt of response from PSAA</b>	<p>Further investigation will take place within 60 days from the date of the PSAA's response – extended to 80 days with social work manager agreement where complexity of substantiation investigation requires extension.</p> <p>Further extension for exceptional circumstance (meeting purpose of substantiation investigation; child at risk; criminal investigation; legal process) requires social work manager approval.</p> <p>Provide PSAA with provisional conclusion within this timeframe.</p> <p>Continue to provide relevant information and documentation in consideration of fair procedures, Child Protection and Data Protection.</p>	<p><b>Keep the data subject informed about:</b></p> <ul style="list-style-type: none"> <li>• how their data is processed</li> <li>• their rights as data subjects by continuing to make the CASP Data Protection Notice available to them.</li> </ul> <p>Verbally explain the process and answer any questions they may have.</p> <p>Seek support from the Data Protection Unit, if required.</p>



## STAGE 2 (CONTINUED)

Type of Process	CASP Timelines and Actions	Data Protection Consideration
<b>Timeframe for PSAA to respond to provisional conclusion</b>	The PSAA has 28 days from the date of the letter and report to respond to the provisional conclusion.	
<b>Issuing of Final Conclusion to PSAA</b>	<p>The final conclusion will be issued within 60 days from the date of the PSAA's response – extended to 80 days with social work manager agreement where complexity of substantiation investigation requires extension.</p> <p>Further extension for exceptional circumstance (meeting purpose of substantiation investigation; further investigation, child at risk; criminal investigation; legal process) requires social work manager approval.</p> <p>Continue to provide relevant information and documentation in consideration of fair procedures, Child Protection and Data Protection.</p>	<p>Minimise disclosure of other data subjects' personal data; and minimise the risk of misuse of the data. Ensure secure delivery of the data to the PSAA to minimise the risk of a data breach.</p> <p><b>Keep the data subject informed about:</b></p> <ul style="list-style-type: none"> <li>• how their data is processed</li> <li>• their rights as data subjects by continuing to make the CASP Data Protection Notice available to them.</li> </ul> <p>Verbally explain the process and answer any questions they may have.</p> <p>Seek support from the Data Protection Unit, if required.</p>



## REVIEW

Type of Process	CASP Timelines and Actions	Data Protection Consideration
<b>Review requested by PSAA following final conclusion.</b>	The PSAA can request a review within 14 days from receipt of Final Conclusion	
<b>Acknowledgement of request for review by CASP social work team leader</b>	The CASP social work team leader has 10 days to acknowledge receipt of request to the PSAA and inform Tusla Office of Legal Services of the request for the review.	<p>Throughout the Review Process the chairperson of the review panel should keep the data subject informed about:</p> <ul style="list-style-type: none"> <li>• how their data is processed</li> <li>• their rights as data subjects by continuing to make the CASP Data Protection Notice available to them,</li> </ul>
<b>Establishment of review panel</b>	<p>Tusla Office of Legal Services will establish a review panel within 15 days.</p> <p>The chairperson of the review panel will inform the area manager, relevant CASP principal social worker and the PSAA within five days of the review panel being appointed.</p> <p>The relevant CASP principal social worker will be asked to provide the chairperson of the review panel with relevant information and documentation within 15 days.</p>	<p>Verbally explain the process and answer any questions they may have.</p> <p>Seek support from the Data Protection Unit, if required.</p>



## REVIEW (CONTINUED)

Type of Process	CASP Timelines and Actions	Data Protection Consideration
<b>Review panel communication with PSAA</b>	<p>Following the interview with the PSAA, the review panel shall provide a copy of the interview record to the PSAA, allowing the PSAA 10 days (from the date of the note) to notify them of any clarifications or inaccuracies.</p> <p>The review panel will provide the relevant CASP principal social worker with a copy of the final interview notes. The relevant CASP principal social worker will then have 14 days to provide the review panel with any response to the issues raised by the PSAA in their interview or in their written submissions.</p> <p>The review panel will provide the PSAA and relevant CASP principal social worker with any submissions or notes of interviews with other parties. The PSAA and relevant CASP principal social worker will have 14 days to provide a response.</p> <p>Having completed the interview with the PSAA and having received any submissions, the review panel will have 30 days to complete its provisional review report.</p>	<p>Throughout the Review Process the chairperson of the review panel should keep the data subject informed about:</p> <ul style="list-style-type: none"> <li>• how their data is processed</li> <li>• their rights as data subjects by continuing to make the CASP Data Protection Notice available to them,</li> </ul>
<b>Issuing of provisional review report to the PSAA and relevant CASP principal social worker</b>	<p>The review panel will provide the provisional review report to the PSAA and relevant CASP principal social worker who will have 14 days to make submissions to the review panel in relation to the provisional report.</p>	<p>Verbally explain the process and answer any questions they may have.</p> <p>Seek support from the Data Protection Unit if required.</p>
<b>Completion and issuing of final review report to PSAA and relevant CASP principal social worker</b>	<p>The review panel shall complete its final report within 14 days of the receipt of any written statement or written submission from the PSAA and relevant CASP principal social worker in relation to the provisional report.</p> <p>If no response or submissions are received by the deadline for submissions, the review panel shall proceed to complete its final report.</p> <p>The PSAA and relevant CASP principal social worker will be provided with the final review report.</p>	

# 8.0

## Geographical considerations

### 8.1 | Introduction

The PMD disclosing abuse and the PSAA can often live in different areas of the country or even in different countries. If the PSAA lives outside of the Republic of Ireland, a CASP substantiation assessment will be carried out if it is indicated that they may have, or are likely to have, contact with children in the Republic of Ireland.

The following sections set out the circumstances where the CASP will apply:

#### 8.1.2 | Where both the PMD and the PSAA live in different Tusla areas, regardless of where the alleged incident occurred. This includes circumstances where the PMD lives outside of the Republic of Ireland.

The Tusla office in the area where the PSAA (either a child or adult) lives is responsible for undertaking the substantiation assessment of the PMD's allegations.

Child Protection & Welfare Services are delivered to children by Tusla in the area in which the child lives, irrespective of whether the child is a PMD, a PSAA or a child at potential risk of harm. The CASP social worker in the Tusla area where the PSAA lives will undertake the substantiation assessment.

The PMD should be informed of this, and arrangements should then be made for the PMD (and their parents, if the PMD is a child) to be contacted by the CASP social worker in that area.

The screening social worker receiving the referral should ensure that the referral is passed to the appropriate Tusla area, without delay.

If the PSAA works outside of the Tusla area where they live, the Tusla area where the PSAA lives remains responsible for contacting the PSAA's employer, if that employer is a relevant third party who may need to be informed of the child protection concerns.

The Tusla area where the PSAA lives is responsible for contacting the relevant Tusla area where the PSAA works to advise them of any relevant child protection concerns.

#### 8.1.3 | Where the PSAA lives outside Republic of Ireland, and it is indicated that they have, or are likely to have, contact with children in the Republic of Ireland.

If the PSAA lives outside the Republic of Ireland, the CASP will apply if it is indicated that the PSAA has, or is likely to have, contact with children in the Republic of Ireland, regardless of the location of the PMD.

The Tusla area that receives the disclosure is responsible for undertaking the CASP assessment. The PSAA's data protection rights should be considered in accordance with the CASP Data Protection Guidance. If the PSAA lives outside Republic of Ireland, the CASP social worker should make arrangements, if necessary, for any meetings with the PSAA to take place remotely using a secure video link.

If, after a substantiation assessment, the CASP social worker has determined that the allegations are founded and that the PSAA poses a potential risk of harm to children, the CASP social worker should consult with Tusla's International Social Service and get their guidance about notifying relevant authorities abroad. Any information relating to a potential risk of harm from a PSAA who resides in another country will then be sent through International Social Service. They will forward it to the appropriate International Social Service contact person or relevant organisation in the jurisdiction concerned.

### 8.1.3.1 | Where it is determined that there is an immediate serious risk to children

At any time during the screening process, or the preliminary enquiry or the substantiation assessment, if it is determined that a child or children are at immediate serious risk of harm in the jurisdiction where the PSAA lives, the child protection and welfare services in that jurisdiction should be informed of the child protection concerns without delay. In these circumstances, the CASP social worker should take the following steps:

- Arrange a consultation with Tusla's International Social Service to seek their advice and guidance on the matter. Any information relating to an immediate serious risk of harm from a PSAA who lives in another country will then be sent through International Social Service, who will forward it to the appropriate International Social Service contact or relevant organisation in the jurisdiction concerned.
- Provide the child protection and welfare services in the jurisdiction where the PSAA lives with an appropriate level of information that allows them to take the necessary steps to ensure the protection and well-being of children in their jurisdiction. The exact nature of the information to be provided should be agreed in advance with the relevant social worker's line manager.

- Advise the child protection and welfare services in the jurisdiction where the PSAA lives in writing that:
  - no conclusion has been reached about the validity of the concerns
  - the decision to inform them of the child protection concerns has been made because it is considered necessary from a child protection point of view.

### 8.1.3.2 | Where it is determined that there is no immediate serious risk to children

However, if it is determined that a child or children is not at immediate serious risk of harm, the PSAA's right to fair procedures must take priority. This means that a substantiation assessment must be carried out and a final conclusion reached (including a founded outcome) before deciding to notify any relevant third parties.

### 8.1.4 Where the PSAA lives outside the Republic of Ireland, and there is no indication that they have, or are likely to have, contact with children in the Republic of Ireland

The CASP will not apply in circumstances where the PSAA lives outside the Republic of Ireland if there is no indication that they have, or are likely to have, contact with children in the Republic of Ireland.

The social worker completing the preliminary enquiry will seek a consultation with Tusla International Social Service (ISS) and seek their guidance in relation to providing a report of the disclosure to the child protection and welfare services in the jurisdiction where the PSAA lives.

The report should indicate that the disclosure has been received in respect of a PSAA who lives in their jurisdiction and that the disclosure has not been assessed. The report should make clear that, in the absence of a substantiation assessment of the PSAA's response to the allegation, no conclusion has been reached regarding the legitimacy of the allegation. The report should also make clear that any responsibility to undertake an assessment or inform the PSAA of the details of the disclosure rests with relevant authorities in the other jurisdiction.

Subject to this consultation, the report will then be sent through the International Social Service, who will forward it to the appropriate International Social Service contact or relevant organisation in the jurisdiction concerned.

The Tusla area receiving the referral should also advise the PMD (and their parents if the PMD is a child) that they can report their disclosure to An Garda Síochána, if they have not already done so.

Even where the CASP does not apply, if it is determined that a child or children are at immediate serious risk of harm, the child protection and welfare services in the jurisdiction where the PSAA lives must be informed of the child protection concern without delay. See previous section for steps to be taken in these circumstances.

The contact details of the Irish International Social Service correspondent are:

### 8.1.5 | Situations where the location of the PSAA is not known at the point of referral

It is the responsibility of the Tusla area where the PMD lives to respond to the referral.

Once the referral has been screened and passed to the CASP Team, the CASP social worker in the area where the PMD lives should take all reasonable steps available to them to locate the PSAA. For example, this means they need to check with An Garda Síochána, the Department of Social Protection, or the Health Service Executive. If the PSAA's location is confirmed, the CASP social worker must, without delay, pass the referral on to the Tusla area where the PSAA is confirmed to live.

### 8.1.6 | Situations where the location of the PSAA cannot be established

Where the PSAA's location cannot be established, and Tusla has taken all reasonable steps to locate a PSAA, this satisfies the necessary grounds for a decision not to proceed with a substantiation assessment.

Where Tusla receives a disclosure and the location of the PSAA cannot be established, Tusla should notify to An Garda Síochána.



### Key information

International Social Service Ireland  
 Child and Family Agency  
 Sir Patrick Dun's Hospital  
 Grand Canal Street Lower  
 Dublin  
 D02 P667  
**Tel: +353 1 647 7012 / 647 7000**  
**Email: iss@tusla.ie**

# 9.0

## The recording and management of information as part of the CASP

### 9.1 | Introduction

The CASP Data Protection Guidance provides detailed information on Tusla's data protection obligations to, and the data protection rights of service users to whom the CASP may apply. The CASP Data Protection Guidance should always be referred to for help in applying data protection obligations in the context of the CASP.

### 9.2 | Sharing information with a PSAA

Where the assessment moves to stage 2, fair procedures require that the PSAA is informed of allegations made against them and provided with all relevant information and documentation gathered by the CASP social worker. This information must be provided in accordance with the procedure, even if the PSAA does not request it. If there is information contained within the relevant documentation gathered by the CASP social worker which is not relevant and relates to people other than the PMD or the PSAA, that information should be redacted on the grounds of data protection.

### 9.3 | Information, documentation, and reports from other professionals

Before seeking reports from other professionals, the CASP social worker should advise the reports' authors of Tusla's requirement to share all relevant information and documentation with the PSAA (and their parents, if the PSAA is a child). It is important that the authors are aware of this before providing a report to Tusla. This is because, once they receive the documentation, the CASP social worker is obliged to disclose relevant information and documentation to the PSAA should the assessment move to stage 2.

If reports or documents have been given to the CASP social worker that were not requested by them, these reports will have to be disclosed to the PSAA (and their parents if the PSAA is a child) if they are relevant to the assessment. Therefore, it is important that the authors of such reports are informed of the requirements and given the opportunity to raise any objections or request any data restrictions in advance of providing the reports.

### 9.4 | Record keeping

A record in the PMD's name and the PSAA's name is to be opened when the referral is received. These records are used to hold the details of:

- disclosures and allegations,
- names and circumstances of the PMD and the PSAA,
- decisions made during the first stage of the substantiation assessment.

A case record should also be created in the name of each identified child who is believed to be at risk of harm, including any child who is in the direct care of the PSAA.

Whether the PMD takes part in the substantiation assessment or not, details of an allegation and the actions taken must be carefully recorded in all circumstances. This includes where a disclosure does not reach the threshold to move to stage 1 of a substantiation assessment.

If action has been taken to inform a relevant third party of child protection concerns, the details and reasons for the action must be clearly recorded on any identified child's record and the record of the PSAA.

Details of any agreements and decisions regarding the substantiation assessment should be carefully recorded in records of the PMD and the PSAA.

Documents and handwritten notes must be scanned and saved onto Tusla Case Management System (TCMS), and the originals securely shredded.

When the case is closed, the PMD and the PSAA (if the assessment has moved to stage 2), will be informed in writing of the case closure and their rights under data protection, which should be recorded on the case record.

Details of a review, the people involved, the correspondence and reports produced must be recorded and kept on the case record on TCMS.

# Part B

## Procedure for responding to referrals of child abuse under the CASP

# 10.0

## Receiving a referral

### 10.1 | Introduction

Disclosures of child abuse against a PSAA will be handled in accordance with the requirements of the Children First Act 2015, Children First National Guidance and Tusla's CASP. Tusla will offer help with any potential vulnerability and support requirements of the PMD. The CASP social worker will provide information on relevant supports in the PMD's area. If the PMD's counsellor has referred the PMD, Tusla will contact them to ensure that the PMD has the relevant supports available to them.

Based on the referred concern or any existing information, if it is determined that a child or children are at immediate serious risk of harm, the concern must be followed up immediately and any necessary interventions made (see section 4.0 A child's right to be safe from harm).

The process of giving a PSAA an opportunity to respond to allegations made against them should not prevent Tusla from taking the steps deemed necessary to ensure the safety of a child from immediate serious risk of harm. If a case involves An Garda Síochána, there should be a consultation with them about any steps to be taken to ensure the safety of a child from immediate serious risk of harm.

### 10.2 | Anonymous referrals

If an anonymous referral is received, alleging abuse against an identified PSAA, the screening social worker will screen the referral and determine if the threshold for immediate serious risk of harm to a child is met.

Not being able to ask about the information supplied by the referrer's anonymous source inevitably places certain limits on the extent of any assessment. However, it is important for Tusla to take steps to establish the facts of the referral insofar as this is possible.

If the referral is made by a person advocating on the PMD's behalf, the CASP social worker, as part of the preliminary enquiry, should try to establish the reason why the PMD wishes to remain anonymous. The CASP social worker should discuss with the advocate the possibilities of facilitating a meeting between the PMD and the CASP social worker. If this meeting cannot be organised, the CASP social worker must still fully assess the information available and establish if there is a likelihood that children are at risk of harm or may be placed at risk of harm.

The CASP social worker should explain to the advocate that the actions Tusla can take will be limited if the PMD decides to remain anonymous. The social worker should ask that the advocate tells the person who has made the allegations of these limitations.

If it is determined that a child or children are at immediate serious risk of harm, Tusla must take protective action to ensure their safety. This may require a relevant third party to be informed of the child protection concerns. Notification of non-assessed concerns against a PSAA to a relevant third party involved with a child should only happen if Tusla has determined that there is an immediate serious risk of harm to identified children.

# 11.0

## Screening and CASP preliminary enquiries

### 11.1 | Introduction

Children First National Guidance (2017, pages 7–13) provides definitions of child abuse which are used to determine and conclude if a child is at risk of abuse or has already suffered abuse. All referrals of child abuse received by Tusla are subject to a screening and preliminary enquiry process to determine if there is a basis for a substantiation assessment for an identified and or yet-to-be-identified child or children. All people referring concerns using Tusla's Portal online will receive an automated acknowledgement of their referral through the portal.

### 11.2 | Screening

When screening a referral, the screening social worker must consider the following:

1. does the information in the referral meet the Children First threshold of reasonable grounds for concern and definition of child abuse?

and

2. are they satisfied that the referral information is not a fake or a hoax?

and

3. does the information in the referral fall within the category of cases as outlined in Section 3.2 Criteria for applying the CASP to allegations of child abuse?

In relation to No 3 above, at the point of screening, it may not be clear that the criteria for the CASP, as set out in Section 3.2 (Criteria for applying the CASP to allegations of child abuse), have been met. Further enquiries may be required before a decision to apply the CASP is made. These enquiries will need to be made in a preliminary enquiry under the national approach to practice.

For the above cases and cases being dealt with under the NAP/SofS that meet the criteria for the CASP, the social worker team leader will refer the case to the relevant CASP team for a CASP preliminary enquiry. (See section 8 – Geographic considerations)

If the screening social worker is satisfied that a referral meets the criteria, Tusla then has a statutory obligation to further assess the allegations. The case will be referred to the CASP social worker who will conduct a CASP preliminary enquiry.

The screening stage is also used to:

- make decisions on any immediate protective action that may be required in relation to identified and or identifiable children.
- record the type of abuse alleged.

If a person makes a self-referral, either a PMD or a PSAA, the screening social worker must provide them with a copy of the relevant CASP Data Protection Notice.

If the PMD has not provided identifying details of the PSAA, the social worker must advise the PMD (and their parents if the PMD is a child), in writing, that Tusla cannot take any action because they have no identifying details of the PSAA. In these circumstances Tusla is still required to notify An Garda Síochána if Tusla suspects that a crime has been committed and a child has been wilfully neglected or physically or sexually abused. The PMD should be informed of Tusla's responsibility to protect children who may be at risk of harm. Also, the PMD should be informed of supports that are available to them, now and in the future.



### Key information Hoax or fake referrals of child abuse

Part of the screening process is to rule out allegations which are readily apparent as a hoax or fake. Unless a disclosure can be readily deemed to be a hoax or fake allegation, it must then be assessed in accordance with the eligibility criteria.



If the Screening social worker is satisfied that the case does not meet the eligibility criteria for a substantiation assessment, the decision not to apply the CASP should be fully recorded for future reference on the case record.

### 11.3 | How the screening decision is approved, and the case transferred to the CASP social worker

When the screening social work team leader is satisfied that a case meets the screening criteria for a substantiation assessment, they will arrange a transfer of the case, without delay, with the CASP social work team leader. After this meeting the CASP social worker will conduct a CASP preliminary enquiry.

### 11.4 | Moving a case to CASP team from another team in Tusla

At the point of screening, it may not be clear that the criteria for the CASP, as set out in Section 3.2 (Criteria for applying the CASP to allegations of child abuse), has been met and further enquiries may be necessary before a decision to apply the CASP is made. These enquiries will need to be made during a preliminary enquiry under the national approach to practice.

For the above cases and cases being dealt with under the NAP/SofS that meet the criteria for the CASP, the social worker team leader will refer the case to the relevant CASP team for a CASP preliminary enquiry. (See Section 8: Geographic considerations)

### 11.5 | When Tusla receives further information about a previous case

When a PMD contacts Tusla about a previous disclosure that did not progress to stage 2

The receipt of new information about a disclosure that was previously closed and not assessed, will be treated as a new referral and the CASP will apply if the screening criteria are met. For example, the CASP will apply if the PMD now wishes to engage with Tusla having previously decided not to engage with a substantiation assessment and the substantiation assessment did not progress to stage 2.

When Tusla receives new information on a previous case that has reached a final conclusion.

Where new information is received regarding an allegation that was previously assessed and had a founded or unfounded outcome a decision should be made if any immediate protective action is required. The new information will be treated as a new referral. If the new information proceeds beyond screening to a CASP preliminary enquiry the CASP social worker should consult with their line manager and seek legal advice from the Tusla office of legal services as part of the preliminary enquiry.

### 11.6 | The CASP Preliminary Enquiry

As part of the preliminary enquiry stage of the assessment, the CASP social worker will contact the PMD (and their parents, if the PMD is a child). The CASP social worker should:

#### Explain the information required at this point in the process to the PMD (and their parent, if PMD is a child)

- Advise the PMD that the CASP social worker is carrying out a preliminary enquiry.
- Explain to the PMD that the purpose of the preliminary enquiry is to establish the main facts to determine if there is an immediate serious risk of harm to a child and if there are continuing reasonable grounds for concern and if further assessment is required.
- Advise the PMD that a full account of their disclosure is not required at this time.
- Seek to establish the main facts of what the PMD has disclosed.
- Ask if the current location of the PSAA is known to the PMD.
- Ask if it is known whether PSAA has current contact with children.
- Explain that they will have an opportunity to give a full account of their disclosure if the process moves to stage 1.

#### Explain process to the PMD (and their parents if the PMD is a child)

- Provide the PMD with access to the Child Abuse Substantiation Procedure (CASP) and the relevant CASP information leaflet for Persons Making a Disclosure of Abuse.
- Explain that the purpose of the substantiation assessment is to determine if the allegations are founded and if so whether the PSAA poses a potential risk of harm to children.
- Explain that, if it is determined that there are continuing reasonable grounds for concern and further assessment is required, then the assessment will move to stage 1.

- Advise that stage 1 is the information-gathering stage, as part of which the PMD will need to be interviewed by the CASP social worker.
- Explain to the PMD that when they are interviewed, a full account of their disclosure will be taken.
- Explain to the PMD that the stage 1 interview is particularly important, as it will be used to determine if the assessment will proceed to stage 2 of the substantiation assessment.
- Advise that, at the end of stage 1, if a decision is made to move to stage 2, the PSAA will be entitled to receive all relevant information and documentation gathered during the substantiation assessment. The CASP social worker must explain that the information will include the PMD's identity, details of the allegations, a copy of the notes from the PMD's interview with the CASP social worker and a copy of any notes in respect of the CASP social worker's contact with and or interviews with witnesses.
- Inform the PMD that any non-relevant information will be redacted prior to being provided to the PSAA
- Advise the PMD that they are not obliged to engage with Tusla regarding a substantiation assessment.
- Advise the PMD that if they choose not to engage, Tusla will be limited in the actions it can take in relation to the disclosure and the actions that can be taken regarding the PSAA. Advise the PMD that if they choose not to engage, their information will only be disclosed to the PSAA if the assessment moves to stage 2. This will happen if the CASP social worker continues to have reasonable grounds for concern and believes that further assessment is required. The decision to move to stage 2 can be made even if the PMD decides not to engage with the process. Please refer to Section 11.9 (Implications of the PMD's decision not to engage in stage 1) of the substantiation assessment, for further information.

- Advise the PMD that if the assessment moves to stage 2 due consideration will be given to any potential serious harm to the PMD by the release of any relevant information and documentation to a PSAA. The CASP social worker should keep in mind that relevant information can only be withheld from the PSAA in stage 2 in extremely limited circumstances. A decision to withhold or limit the relevant information to be given to the PSAA should be made in consultation with the line manager and legal advice should be sought.
- Discuss the limitations detailed above with the PMD.
- Inform the PMD that the allegations will be subjected to a reliability and accuracy check and, if the PSAA denies the allegations, or raises other issues in relation to the allegations, or puts forward a different version of events, the PSAA's account may need to be put to the PMD for comment.
- Inform the PMD that, under the requirements of Children First, An Garda Síochána has been notified of the referral and that the PMD can, if they have not already done so, make a statement to An Garda Síochána at any point.
- Ensure that, where required, the PMD will have access to family or intermediary support through the substantiation assessment process.
- Inform the PMD that the formal interview(s) will be the first stage of the substantiation assessment process.
- Provide the PMD with a reasonable amount of time to decide if they wish to provide details of their disclosure.



### Key information

A PMD is not obliged to engage with Tusla in a substantiation assessment and may decide not to do so. The PMD can make contact in the future if they change their mind.

### Set up the interview for the PMD (and their parent, if PMD is a child)

- Arrange a location with the PMD for the stage 1 interviews that is suitable and convenient for them. For example, at their nearest Tusla office.
- Inform the PMD that they can bring a support person with them to the stage 1 interview and any subsequent meetings. Explain that if they choose to bring a support person, fair procedures require that the PSAA (and their parents, if the PSAA is a child) be made aware of this. However, the support person's name will not be disclosed to the PSAA.
- Inform the PMD that they may identify witnesses who may have seen an event or may have knowledge or information relevant to their disclosure to be interviewed by the CASP social worker
- Inform the PMD about Tusla's "Tell us - Feedback and Complaints: Policy and Procedure" and provide them with a copy should they wish to make a complaint about Tusla at any stage during the process.

### Protect the data protection rights of all parties

- Keep private – that is, do not disclose to the PMD the existence or details of any previous allegations against the PSAA made by another party.
- Ensure that the data being held is documented and processed in line with data protection requirements.
- Inform the PMD of their data protection rights and provide them with a copy of the relevant CASP Data Protection Notice.

**The assessment will move from the CASP preliminary inquiry to stage 1 if there are reasonable grounds for concern and further assessment is required.**

### 11.7 | Actions to be taken at the end of the CASP preliminary enquiry

At the end of the CASP preliminary enquiry, the CASP social worker will:

- ensure that, where it is determined that a child or children are at immediate serious risk of harm, they will notify the relevant screening team.
- complete all requirements relating to child abuse notifications to An Garda Síochána.
- decide in consultation with their line manager if there are continuing reasonable grounds for concern and if further assessment is required. If so, the matter will proceed to stage 1 of the substantiation assessment.
- note in the file that no further action is required if there are no reasonable grounds for concern and further assessment is not required.
- communicate with the PMD (and their parents, if the PMD is a child), verbally and in writing, the decision that the referral does not meet the eligibility criteria for proceeding with a substantiation assessment.
  - inform the PMD (and their parents if the PMD is a child) of Tusla's 'Tell us - Feedback and Complaints: Policy and Procedure' and provide them with access to it.

### 11.8 | Where the PMD and or a witness requests anonymity

If the PMD or a witness is afraid to come forward because of fear of reprisal if the PSAA becomes aware that they have made a disclosure of abuse, the PMD or the witness should be encouraged to contact An Garda Síochána with a view to establishing an adult PMD safety plan to secure their protection.

Tusla must notify An Garda Síochána where it suspects that a crime has been committed and a child has been wilfully neglected or physically or sexually abused. Tusla will advise An Garda Síochána where the PMD has requested anonymity from Tusla or told Tusla that they do not want contact with An Garda Síochána.

If a person making a disclosure later decides that they no longer wish to remain anonymous, the CASP social worker should explain that, if the assessment moves to stage 2, that process involves disclosing all relevant information and documentation, including the identity of the PMD and any witnesses, to the PSAA.

The CASP social worker should explain that the PSAA has a right to know who has made allegations against them so that they can make representations in the substantiation assessment process. Tusla cannot carry out a substantiation assessment which affords fair procedures to the PSAA unless this information is disclosed.

The CASP social worker should make the arrangement with the PMD to undertake stage 1 of the substantiation assessment. The CASP social worker must then confirm to the PMD in writing that stage 1 of the substantiation assessment will be conducted, along with the details of where and when it will take place.

### 11.9 | Implications of the PMD's decision not to engage in stage 1 of the substantiation assessment

If the PMD (or their parents, if the PMD is a child) decides not to engage in stage 1 of the substantiation assessment, that decision carries certain implications. These include:

- Tusla will be limited in the actions it can take in relation to the PMD's disclosure and will be limited in the actions that can be taken regarding the PSAA.
- If the PSAA is named, Tusla still has a responsibility to satisfy itself if any children, identified or yet to be identified, are at risk of harm. There may be other information which will need to be followed up on and assessed. For example, if the PMD is alleging that other named persons were abused, these allegations will require a follow-up, even if the PMD does not wish to co-operate or engage in the process.
- If the CASP social worker continues to have reasonable grounds for concern, and believes that further assessment is required, it will be necessary to move to stage 2 of the assessment and to meet with the PSAA to obtain their response to the allegations.
- Tusla has an obligation to report to An Garda Síochána where it suspects that a crime has been committed and a child has been wilfully neglected or physically or sexually abused. The CASP social worker should consider the PMD's specific circumstances and any specific vulnerabilities or sensitivities, when advising them of this requirement.

### 11.10 | Actions for the CASP social worker where the PMD decides not to engage in stage 1 of the substantiation assessment

If there are grounds that suggest that a person identified by the PMD has relevant information concerning the allegations against the PSAA, this information should be sought by the CASP social worker to ascertain if a substantiation assessment should proceed in the absence of the PMD.

Where the PMD (and their parents if the PMD is a child) decides not to engage in stage 1 of the substantiation assessment, the CASP social worker should:

- write to the PMD acknowledging that the referral has been made and explain the limitations on actions that can be taken without Tusla being able to meet with them.
- advise parents who have chosen not to allow their child (who has made a disclosure against someone outside of their family) to be interviewed by the CASP social worker or a member of An Garda Síochána, that being unable to discuss the allegations with the child will limit the actions that can be taken by Tusla regarding the PSAA.
- examine disclosures supplied by another person on behalf of the PMD, to determine if there is a potential risk of harm to identified and or identifiable children.
- advise the PMD that they can make contact in the future if they change their mind.

## 12.0

### Circumstances relevant to the interviewing of PMD's

#### 12.1 | When a child has been interviewed or has made a statement of complaint to An Garda Síochána

Where allegations are being investigated by An Garda Síochána, the child will likely be interviewed by An Garda Síochána and Tusla specialist interviewers. This will be conducted under Section 16 (1) (b) of the Criminal Evidence Act 1992.

To avoid further potential distress to a child, the digital recording of the Section 16 (1) (b) interview should be used by the CASP social worker to gather details of allegations required for a substantiation assessment. Where such an interview has taken place, Tusla should request An Garda Síochána to give access to the recording of the Section 16 (1) (b) interview. A professionally qualified social worker who is independent of the substantiation assessment will then view the Section 16 (1) (b) interview and provide a report on the details of the disclosure presented in the recording to the CASP social worker who is undertaking the substantiation assessment. A copy of the report should be provided to An Garda Síochána for their records. This report will then be used as basis for the substantiation assessment.

Where an older child has given a written statement of complaint to An Garda Síochána, the CASP social worker who is undertaking the substantiation assessment should access the statement.

#### 12.2 | When a child has not been interviewed or has not made a statement of complaint to An Garda Síochána and wishes to engage with Tusla

If a child PMD or their parents have decided that they do not wish to make a statement of complaint or have a specialist interview with An Garda Síochána, but wish to engage with a Tusla CASP substantiation assessment, the child PMD will need to be interviewed by the CASP social worker undertaking the substantiation assessment.

If the assessment progresses to stage 2, fair procedures require that the PSAA (and their parents if the PSAA is a child) is given a copy of the interview. This will be used as a basis of the substantiation assessment.

#### 12.3 | When an adult has made a statement of complaint to An Garda Síochána

Where an adult PMD has made a statement of complaint to An Garda Síochána, the CASP social worker should notify the PMD that the CASP social worker will seek a copy of their statement to inform the assessment of their disclosure.

Before seeking the statement from An Garda Síochána, the CASP social worker must advise An Garda Síochána that, if the assessment moves to stage 2, fair procedures will require that a copy of the statement be provided to the PSAA (and their parents if the PSAA is a child). If An Garda Síochána do not agree to the PSAA having access to the statement, the CASP social worker should not access it.

The PMD should be informed that, even in circumstances where the CASP social worker accesses a copy of the Garda statement, the PMD will need to be interviewed as part of the substantiation assessment.



#### Key information

Before requesting the statement or access to the specialist interview, the CASP social worker should advise An Garda Síochána that fair procedures will require Tusla to provide the PSAA (and their parents, if the PSAA is a child) with a copy of the statement, or the note of the specialist interview if the assessment moves to stage 2. If An Garda Síochána do not agree to the PSAA having access to this, the CASP social worker should not seek access to the statement or specialist interview recording.

The PMD should be informed that if the CASP substantiation assessment progresses to stage 2, fair procedures require that the PSAA (and their parents, if the PSAA is a child) is given a copy of the PMD statement of complaint and their interview.

#### 12.4 | When an adult has not made a statement of complaint to An Garda Síochána and wishes to engage with Tusla.

If an adult PMD has decided that they do not wish to proceed with making a statement of complaint to An Garda Síochána, but wishes to proceed with a CASP substantiation assessment, the CASP social worker undertaking the substantiation assessment will need to interview them.

If the assessment progresses to stage 2, fair procedures require that the PSAA (and their parents, if the PSAA is a child) is given a copy of the interview.

#### 12.5 | Where the PMD withdraws from the substantiation assessment

If the PMD (and their parents, if the PMD is a child) withdraws from the substantiation assessment, but Tusla is still required to continue with the assessment because of the potential for existing child protection concerns, it will be necessary to obtain a full copy of the Garda statement or transcript of a recorded interview (See Section 11.10 Actions for the CASP social worker where the PMD decides not to engage in stage 1 of the substantiation assessment).

If the CASP social worker seeks the statement from An Garda Síochána, they need to confirm with An Garda Síochána that a copy of the statement can also be provided to the PSAA (and their parents if the PSAA is a child). If An Garda Síochána do not agree to the PSAA having access to the statement, the CASP social worker should not access it.

Any statements or transcripts obtained from An Garda Síochána will have to be shared with the PSAA (and their parents if the PSAA is a child) where these documents have been gathered by the

CASP social worker and are relevant to the substantiation assessment.

The PMD should be informed that, if the CASP substantiation assessment progresses to stage 2, fair procedures require that the PSAA (and their parents, if the PSAA is a child) is given a copy of their statement of complaint.

#### 12.6 | Multiple interviews with the PMD

Where possible, CASP social workers should avoid carrying out multiple interviews with the PMD as such a process can be traumatic for the PMD.

However, if there are issues that need clarification in an adult PMD interview, the CASP social worker should seek to discuss these with the adult PMD in the presence of their support person. The adult PMD should be made aware that this could happen during the initial contact before a formal interview take place.

Where there are issues for clarification in a child PMD interview, the CASP social worker should seek to discuss and resolve these with the child PMD's parents with the specialist interviewers. This should be done before considering additional interviews with a child PMD and or where it is deemed that re-interviewing of the child is not in their best interest.

In exceptional circumstances, it may be deemed necessary to meet directly with a child PMD to clarify aspects of their allegations. If there is an on-going criminal investigation, it is essential that An Garda Síochána is fully consulted. Tusla senior management (principal social worker or above) must sanction additional interviews with a child PMD.

The decision to carry out additional interviews with the PMD, or to not to do so, should be fair, reasonable, and proportionate, and based on the individual circumstances of each case. The reasons for such a decision should be carefully recorded.

## 13.0

### Direct disclosures from children

#### 13.1 | Introduction

Sometimes a child may make a disclosure to Tusla without their parents' knowledge, presence, or agreement. The social worker must make a professional judgement as to the maturity of the child, and the extent to which they can facilitate the child's interview without the agreement/presence of their parents (*Children First National Guidance (2017, page 48)*).

Every possible effort should be made to keep the child's parents engaged and informed of developments, except for situations where this might place the child at risk of harm or impede a criminal investigation.

Where appropriate, depending upon the maturity of the child, the screening social work team must provide the child with a copy of the relevant CASP Data Protection Notice and give them a verbal description of what this means.

#### 13.2 | Informing and consulting with parents on protective actions

Tusla has a responsibility to consult with parents and keep them informed of any planned actions that may be deemed necessary to protect a child (*Children First National Guidance (2017), page 47*). Where there is an immediate serious risk of harm, urgent action must be taken to protect any child or children. This may be achieved by securing the co-operation of a protective carer, family member or other responsible adult in the child's home whose capacity to protect the child can be defined and agreed. **Under no circumstances should a child be left in a situation that exposes them to immediate serious risk of harm pending social work intervention.** In cases of emergency, where a child appears to be at immediate serious risk of harm and urgent protection is required, An Garda Síochána should be contacted.

## 14.0

### Stage 1 of the substantiation assessment: formal interview with the PMD

#### 14.1 | Introduction to stage 1

Stage 1 of the substantiation assessment requires the CASP social worker to interview the PMD. The stage 1 interview process is the CASP social worker's opportunity to gather the PMD's full details, and the context and chronology of their disclosure.

#### 14.2 | How the CASP social worker should conduct interview(s):

At the start of the interview, the CASP social worker will explain that the assessment is currently in stage 1, which is the information gathering stage. Once all the information has been gathered, the assessment will move to stage 2 if the CASP social worker determines that there are continuing grounds for concern and further assessment is required. The CASP social worker should make it clear to the PMD (and their parents, if the PMD is a child) that, if the assessment moves

to stage 2, the PSAA (and their parents, if the PSAA is a child) will be entitled to a written record of this interview as well as all other relevant information and documentation gathered by the CASP social worker.

### During the interview, the CASP social worker should:

#### Seek and clarify written and verbal information

- Seek relevant information or documentation from the PMD. There must be a reasonable basis for requesting such information based on the CASP social worker's interactions with the PMD.
- Give the PMD an opportunity to discuss their own history and any details of their life which they may think relevant to the allegations. This could help the CASP social worker to build a picture of the PMD as an individual. It may also help to corroborate details they provide. When giving this opportunity, the CASP social worker should explain that if the assessment moves to stage 2, any information that the PMD has furnished will be given to the PSAA (and their parents if the PSAA is a child) if it is relevant to the assessment.
- Seek details of the PMD's potential past emotional or behavioural difficulties, their potential mental health, or any addiction issues only if there are reasonable grounds for seeking this information. It may not always be necessary or appropriate to look for this information, and the CASP social worker must be aware of this during their engagement with the PMD. Fair procedure obligations require that such information is shared with the PSAA (and their parents if the PSAA is a child) where it is relevant to the assessment, should the assessment move to stage 2.
- Explain to the PMD that an important part of the interview process is checking the reliability and accuracy of the PMD's disclosure as fully as possible, as fair procedures require that a person's allegations cannot be accepted without an assessment. This is done at an interview by putting specific questions to the PMD in order to explore and test the potential reliability and accuracy of their account. This approach helps to ensure that the interview process with the PMD is robust and fair. It will also help to reduce the likelihood of having to re-interview the PMD on the same matters.

- Ask the PMD specifically about how they would respond if the PSAA denies all or any part of their allegations. This approach helps to ensure that the interview process with the PMD is robust and fair and will help to reduce the likelihood of having to re-interview the PMD on the same matters.

- Identify any inconsistencies in the PMD's account and seek an explanation from the PMD about those inconsistencies.

#### Explore who else may be able to provide information – and what this means

- Give the PMD an opportunity to identify any other people who the PMD believes may have relevant information to the substantiation assessment process, and whom the PMD believes should be interviewed by Tusla. If it is decided not to interview the witness or witnesses proposed by PMD, the PMD should be informed of this and given the reasons why.
- Seek the PMD's views on the CASP social worker contacting and or interviewing other relevant professionals and or witnesses.
- Explain that contact may have to be made with people the PMD has identified as they may be able to assist in the substantiation assessment, even if the PMD states that they do not want certain people to be approached. It is important to point out that no commitment can be made that any identified person will not be contacted.
- Explain the reason why other identified people must be spoken to and get their contact details from the PMD if they have them.

#### Clarify that the details provided are accurate

- The CASP social worker should repeat back to the PMD their understanding of what the PMD has said to ensure they have a full and accurate account of the disclosure.
- Confirm with them that they have given all the information they wish to give.
- Where possible, ask the PMD to sign the notes of the account.

#### Actions to complete the interview

- Give the PMD a copy of the record the interview
- Give the PMD (and their parents, if the PMD is a child) a copy of the relevant CASP Data Protection Notice.

#### 14.3 | Actions at the end of the interview

At the end of the interview, the CASP social worker should:

- Explain that a decision will be made at the end of stage 1 (the information-gathering stage) about whether the assessment will move to stage 2. This decision is based on whether there are continuing reasonable grounds for concern, and if further assessment is required. Explain that a decision will be made in consultation with the CASP social worker's line manager.
- Explain that no predetermined decision on whether the allegations have been substantiated has been reached and that a determination cannot be made until the PSAA has received all relevant information and documentation and has been given an opportunity to respond to the allegations.
- Explain that if the assessment moves to stage 2, a decision will be made about whether the allegations are founded or unfounded on the balance of probabilities. If the outcome is founded, a decision will be made about whether the PSAA poses a potential risk to children.

- Consider if particular information either supports or undermines the disclosure made by the PMD.
- Determine if there is a need to interview other relevant people who may have information relevant to the disclosure made by the PMD.
- Remove information if it is not relevant. Such information must be redacted in line with the CASP Data Protection Guidance. Fair procedure requires that all relevant information and documentation are disclosed to the PSAA.
- Ensure that the PMD can access appropriate supports. The PMD should be directed to local, regional and or national therapeutic services that may be of help to them.

#### 14.4 | Actions following the interview

When the interview has been completed, the CASP social worker should seek relevant information or documentation from witnesses or other relevant people identified by the PMD. This includes any therapist or counsellor the PMD has been working with. There must be a reasonable basis for requesting such information based on the CASP social worker's interactions with the PMD or witness.

#### 14.5 | Actions at the end of stage 1

Once the first stage of the substantiation assessment is complete, the CASP social worker should:

- discuss the substantiation assessment with their line manager.
- consult with An Garda Síochána if they are involved with the case. This consultation should happen before contacting the PSAA. The need for a further strategy meeting should be considered at this stage.
- agree the next steps with An Garda Síochána if possible.
- always avoid unnecessary delays to the substantiation assessment process, as a delay could be considered as a breach of the rights of the PSAA to fair procedures.
- discuss with their line manager any request from An Garda Síochána to delay action.

- keep in touch with the PMD. If delays to a substantiation assessment occur, then the CASP social worker should communicate with the PMD (and their parents if the PMD is a child) at least every eight weeks and give them an update.
- decide in consultation with their line manager, if there are continuing reasonable grounds for concern, and if further assessment is required (as per Children First: National Guidance for the Protection and Welfare of Children, 2017).
- inform the PMD (and their parents, if the PMD is a child) of the decision made after the first stage of the substantiation assessment

#### 14.6 | If it is decided to move to stage 2

- The PSAA (and their parents, if the PSAA is a child) is entitled to receive all relevant information and documentation gathered up to that point of the assessment. Information is said to be relevant if it discloses a fact or facts(s) which either supports or undermines the disclosure made by the PMD.
- The CASP social worker should obtain a second review from their line manager (a four-eye review) of all the information the CASP social worker is considering disclosing to the PSAA. This should happen before any decision is made to move the assessment to stage 2.
- The CASP social worker should keep the PMD (and their parents, if the PMD is a child) informed as to when and how it is planned to share their data with the PSAA. Also, the CASP social worker should provide the PMD with copies of the specific data relating to them before it is shared with the PSAA.
- The CASP social worker should give the PMD (and their parents, if the PMD is a child) the opportunity to raise objections to sharing their information.

#### Withholding of relevant information and documentation in exceptional cases:

- If there is a concern that there is a serious risk of harm posed to the PMD by the release of certain relevant information and documentation to the PSAA, Tusla will consider such risk with a view to determining if it is appropriate to disclose same to the PSAA. Relevant information and documentation can only be withheld from the PSAA in stage 2 in extremely limited and exceptional circumstances where there is a clear and continuing serious risk of harm to an identified person.
- Given the nature of issues involved, such a withholding of information and documentation can only be justified in the most extreme of cases. Even if it is decided to withhold information and documentation, this is done to the least extent possible. A decision to withhold or limit the provision of relevant information to the PSAA should be made in consultation with the CASP social worker's line manager and legal advice from Tusla office of Legal Services should be sought.

#### Any decision to withhold relevant information and documentation from the PSAA must be kept under constant review, and be reactive to any new information that suggests that the initial perception of risk of serious harm is no longer accurate.

#### A decision not to proceed to stage 2

- If a decision is made not to proceed further with the substantiation assessment, the CASP social worker should inform the PMD (or their parents, if the PMD is a child) of this decision and the reason for it. The PMD should be told that no further action will be taken. The PMD should receive confirmation of this in writing.



#### Key information Issues specific to adult and child witnesses

- There must be a reasonable basis for a CASP social worker to contact a witness. For example, they could provide information relevant to the disclosure made by the PMD.
- The CASP social worker, in consultation with their line manager, should decide whether to interview a witness.
- If a PSAA and or PMD asks Tusla to speak to a witness, and the CASP social worker decides not to, this decision not to interview the witness will be communicated to the person who made the request.
- Witnesses can be identified by either the PMD or the PSAA.
- A PSAA may request that questions be put to a witness – (see Section 17 Reliability and accuracy check)
- Witnesses will not, in the normal course, be contacted as part of a review under Part C of the CASP.
- It is up to the witness (and their parents, if the witness is a child) to decide if they wish to co-operate with a substantiation assessment. Tusla cannot compel them to do so.

#### In addition:

A child witness may be accompanied by a parent or other responsible adult in any interviews pertaining to the substantiation assessment.

# 15.0

## Stage 2 of the substantiation assessment: Initial engagement with the PSAA

### 15.1 | Introduction to stage 2

At the beginning of stage 2 of the substantiation assessment, the CASP social worker should give the PSAA (and their parents, if the PSAA is a child) copies of all relevant information and documentation gathered in the substantiation assessment process.

Importantly, the CASP social worker cannot reach any conclusions before the PSAA has been given an opportunity to respond to the allegations.

During stage 2 of the substantiation assessment, Tusla must continue to ensure fair procedures are afforded to the PSAA by completing the following actions:

- Write to the PSAA (and their parents, if the PSAA is a child) at the earliest opportunity of stage 2. The letter should invite them to an initial office appointment to be informed of the concerns that have been brought to Tusla's attention and assessed by the CASP social worker so far.
- Give the PSAA the option of bringing a support person with them to this initial office appointment, and any subsequent meetings, but inform them that it is not a requirement. Where the CASP social worker is concerned that a PSAA has a particular vulnerability, the PSAA should be given information about relevant supports.
- Ensure that any relevant information or documentation gathered by the CASP social worker during stage 2 is provided to the PSAA (and their parents, if the PSAA is a child).
- Update the PSAA (and their parents, if the PSAA is a child) at least every eight weeks if delays to a substantiation assessment occur. The CASP social worker should discuss any potential delay to a substantiation assessment with their line manager.

### 15.2 | The initial meeting with the PSAA

In the initial meeting, the CASP social worker will:

#### When meeting with the PSAA

- Conduct the initial office meeting jointly with another social worker colleague or another professionally qualified member of Tusla staff.
- Confirm the identity of the PSAA when they arrive for the office appointment. Look for an official ID, that is, a State photographic identification (for example, a driving licence or passport), or other acceptable documents. Do not keep a copy of this ID.
- Check with the PSAA if they have any literacy and or language issues that may prevent them from being able to read the information. Discuss and agree with them a suitable means to communicate information to them.

#### Inform the PSAA of their rights

Inform the PSAA (and their parents, if the PSAA is a child) that they have the following rights:

- To seek legal advice. The CASP social worker should discuss any alternative supports with the PSAA if there is a concern about a vulnerability that may affect their ability to access legal advice.
- To receive all relevant information and documentation gathered by the CASP social worker in the substantiation assessment process to inform their response to the allegations. This is subject to any restrictions on disclosure made in exceptional circumstances.

- To submit any documentation that they believe is relevant and or that they seek to rely on to help their case.
- To make any oral or written submissions they wish to rely on and have considered by Tusla during the substantiation assessment process.
- To identify any people they believe to have information relevant to the substantiation assessment process and whom they believe should therefore be interviewed by Tusla.
- Data protection rights and they should be provided with a copy of the CASP Data Protection Notice.
- To make a complaint about Tusla at any stage during the process and give them a copy of Tusla's "Tell us - Feedback and Complaints: Policy and Procedure".

#### Give the PSAA (and their parents if the PSAA is a child) the following:

- Details and an explanation of the process to be followed
- A copy of this Child Abuse Substantiation Procedure (CASP)
- The relevant information leaflet for Persons Subject of Abuse Allegations (PSAA) relating to Tusla's substantiation assessment of child abuse allegations
- Full written details of the allegations (including the identity of the PMD), and a copy of all relevant information and documentation gathered by the CASP social worker as part of the substantiation assessment. This will include a copy of written information, including any reports about the allegations made against the PSAA. If there is information in the relevant documents which is not relevant to the assessment and relates to someone other than the PMD or the PSAA, it may be removed on the grounds of data protection. (See the CASP Data Protection Guidance)
- Details of any identified relevant third party with whom contact is being considered.



#### Key information

- The CASP social worker must advise the PSAA not to respond to the allegations at this initial office appointment, and to read the documents provided before responding. If the PSAA tries to give their response to the allegations at this stage, the CASP social worker should advise them to take the opportunity to read the information given to them first and tell them that they will have an opportunity to give their response at the next meeting.
- The CASP social worker must offer PSAA another meeting to provide a response to the allegations. The PSAA is not obliged to meet with the CASP social worker if they so wish, but they should be advised that any written submission they wish to provide will be considered.
- The PSAA must be advised that any written response given by them or made during any in person meeting will be used as part of the substantiation assessment, to determine if the allegations are founded and, if so, if there is any potential risk of harm towards specific, identifiable, or yet-to-be-identified children.
- The PSAA (and their parents, if the PSAA is a child) must be informed that, in the absence of their agreement to meet or provide a written response to the allegations, the assessment will go ahead without the benefit of their response.

### 15.3 | Where the PSAA is engaging in the substantiation process but declines an initial office appointment

If the PSAA is engaging in the substantiation process but declines an initial office appointment, the CASP social worker must ensure that:

- a letter containing full written details of the allegation(s) (including the identity of the PMD), together with details of the process to be followed is sent to the PSAA, (and their parents, if the PSAA is a child). The actions in Section 15.2 (The initial contact meeting - Informing the PSAA of their rights) should be followed.
- any steps that need to be taken to verify the identity of the PSAA should be taken before posting the above letters. These steps may include carrying out a home visit to the intended address for the letters and verifying the PSAA is present at that address.
- the PSAA is allowed 28 days to respond to correspondence. If no response is received, a second letter should be sent allowing a further 14 days for response.

### 15.4 | Where a PSAA declines to engage in the substantiation process

If a PSAA (and their parents, if the PSAA is a child) declines to engage in the substantiation process, the CASP social worker must ensure that:

- a letter containing full written details of the allegation(s) (including the identity of the PMD), together with details of the process to be followed is sent to the PSAA, (and their parents, if the PSAA is a child). The steps in Section 15.2 (The initial contact meeting - Informing the PSAA of their rights) should be followed.

- any steps that need to be taken to verify the identity of the PSAA should be taken before posting the above letters. These steps may include carrying out a home visit to the intended address for the letters and verifying the PSAA is present at that address.
  - the PSAA is allowed 28 days to respond to correspondence. If no response is received, a second letter should be sent allowing a further 14 days for response.
  - if no response is received, the CASP social worker should assess the relevant information which has been gathered as part of the substantiation process and reach a provisional conclusion in line with the criteria set out in Section 19 (Provisional Conclusion).
  - the PSAA is informed of the provisional conclusion even if they have not responded to previous communication.
  - even if no response is received from the PSAA in relation to the provisional conclusion, the assessment proceeds to a final conclusion and, if founded, an assessment of risk is completed
- If relevant third parties are to be notified, please refer to Section 21 (Notifying a relevant third party after a founded outcome).



### Key information

#### Issues specific to adult and child PSAA's

- The potential vulnerability and support requirements of a PSAA should always be borne in mind. Tusla will seek to help with any potential vulnerability and support requirements a PSAA may have. The CASP social worker will provide information on relevant supports in the PSAA's area.
- The PSAA is entitled to have a support person with them during any interviews.
- Tusla will determine the level of risk of harm to children that a PSAA poses if a final conclusion includes a founded outcome. They will also determine what, if any, actions are required to protect children who may be at risk of harm.
- Tusla may be obliged to notify relevant third parties of their child protection concerns based on these determinations.

#### In addition:

- Tusla must consider the age and stage of development of the child PSAA when engaging with them and their parents in a substantiation assessment
- A child PSAA should be accompanied by a parent or other responsible adult in any interviews related to the substantiation assessment.

## 16.0

### Stage 2 substantiation assessment: meeting with the PSAA to assess their response to the allegations made against them

#### 16.1 | Stage 2 interview process with the PSAA

The purpose of stage 2 of the substantiation assessment is to provide the PSAA with all relevant information and documentation gathered in the process so far and to give the PSAA an opportunity to respond to the allegations. The initial interview and any subsequent interviews should be conducted jointly by the CASP social worker and another social worker colleague or another professionally qualified member of Tusla staff.



### Before the interview process with the PSAA the CASP social worker will:

- inform the PSAA (and their parents, if the PSAA is a child) of their data protection rights and give them access to the CASP Data Protection Notice.
- ensure the PSAA has been supplied with appropriate information before the interview, including all relevant information and documentation gathered by the CASP social worker to date in the substantiation assessment process.
- explain the substantiation assessment process and the purpose of the interview to the PSAA (and their parents, if the PSAA is a child).
- arrange the interview in a timely manner after receiving receipt of confirmation from the PSAA that they are willing to participate in the substantiation assessment process.
- ensure that the PSAA can access appropriate forms of support. The PSAA (and their parents if the PSAA is a child) should be directed to relevant local, regional, or national therapeutic services that may be of help to them.

### At the start of the interview process with the PSAA the CASP social worker will:

- explain the limits of confidentiality in case any admission or disclosure is given by the PSAA during the interview.
- explain that Tusla may be required to notify An Garda Síochána about information provided in the interview.
- explain that the interview with the PSAA is part of the process of assessing the allegations against them. Explain that following the interview and any other necessary enquiries, Tusla will reach a provisional conclusion which will include an outcome as to whether the allegations against the PSAA are founded or unfounded.

- explain that the provisional conclusion will set out whether the allegations are founded and if so, whether the PSAA poses a risk of harm to children. The PSAA will have an opportunity to respond to the provisional conclusion. Any response will be considered and the CASP social worker will undertake any necessary further enquiries. Following this, a final conclusion will be issued.
- make it clear to the PSAA that no determination has been made on whether the allegations have been founded or unfounded in advance of the PSAA's response, and that a determination can only be made once the PSAA has been given an opportunity to respond to the allegations.

### When meeting with the PSAA to receive a response to the allegations

When giving the PSAA an opportunity to respond, the CASP social worker will:

- go through the allegation(s) with the PSAA and allow them to respond to each allegation.
- give the PSAA an opportunity to identify any other people who they believe may have relevant information to the substantiation assessment process and who they believe should be interviewed by Tusla. If it is decided not to interview the witness or witnesses proposed by the PSAA, the PSAA should be informed of this and given the reasons why. The reasons for such a decision should be carefully recorded.
- inform the PSAA that they may request an opportunity to have questions put to the PMD or witness about the allegations. (See Section 17.3 Process where the PSAA requests to have questions put to the PMD or witness)
- try to build a picture of the PSAA as an individual and of their relationship with the PMD, if any. This will allow the CASP social worker to set the allegations against the PSAA's background history, for example (but not limited to), their social, sexual, and physical development history, their life experience, and knowledge of the PMD. This may help to inform the conclusion and determination of any risk of harm to children.

### 16.2 | Support or legal representation for the PSAA at interview

- If the PSAA brings a legal representative or support person, the process set out above remains the same.
- The presence of a legal representative or support person does not change the nature of the interview, and the CASP social worker's questions should be directed to the PSAA. If issues arise that the CASP social worker believes require legal advice, the meeting can be adjourned, if necessary, so that advice can be obtained.
- If the PSAA or their legal representative or support person has any questions about the process, refer them to where they can acquire this information. The PSAA can also be referred to this Child Abuse Substantiation Procedure (CASP). The support person can address questions in the same way as questions from the PSAA.
- If a support person is present for the interview, they should sign a letter confirming they understand their obligation to keep confidential the information being disclosed.
- go through the PSAA's own history and allow them to give any details of their life which they think are important and relevant to the substantiation assessment.
- seek the PSAA's views about the CASP social worker either contacting or interviewing people identified during the CASP social worker's contact with the PSAA. For example, the CASP social worker may identify other people who they consider might have relevant information in relation to the allegations and or information which may assist them in building a picture of the PSAA as an individual, and in determining any potential risk of harm to children. If the PSAA does not agree, the CASP social worker should discuss this with their line manager.
- consider if there is an immediate serious risk of harm to identified or identifiable children. Advise the PSAA that if there are such concerns, it may be necessary to take protective action (which can include informing relevant third parties) in advance of a conclusion being reached where this is necessary to ensure a child's safety. (See Section 4: A child's right to be safe from harm.)
- if the PSAA admits to the allegations explore with them if there are other incidents of child abuse that they may wish to speak about. It should be made clear to them that any such disclosures will be reported to An Garda Síochána in all cases. Where a victim identified by the PSAA is still a child and their identity is known, then the Tusla area where the child lives will be informed.
- once the interview is finished, inform the PSAA that they will be given a copy of the typed notes from the interview as well as any other relevant information and documentation gathered so far during stage 2.
- tell the PSAA that they will be informed in writing of Tusla's provisional conclusion about the allegations when this is reached.

### 16.3 | Actions to be carried out after the interview with PSAA

After the interview with the PSAA, the CASP social worker must:

- scan all handwritten notes to Tusla Case Management System (TCMS) and shred the originals.
- prepare a typed note of the interview and send it to the PSAA (and their parents, if the PSAA is a child).
- give the PSAA the opportunity to notify the CASP social worker of any clarifications or inaccuracies within 10 days of the notes being sent to them.
- record any areas of dispute raised by the PSAA regarding the accuracy or content of the interview notes and keep these together with the interview notes on record.
- carry out any further assessment that may be appropriate in light of the information and response given by the PSAA, including interviewing other people identified as relevant to the substantiation assessment.
- advise the PSAA as soon as is possible if a person identified by the PSAA declines a request to be interviewed.
- provide the PSAA with a copy of all relevant information and documentation if further assessment has been undertaken following the interview.
- meet with, or contact the PSAA again, where necessary, to allow them to respond to any relevant information gathered from the PMD or a witness.
- refer the matter to the Tusla area where the newly identified PSAA resides if the PSAA discloses that they were abused and has identified a PSAA. It is the responsibility of the Tusla area where the newly identified PSAA resides to make the notification to An Garda Síochána.
- consider if the PSAA has denied the allegations, or put forward an alternative version of events, putting these to the PMD. (See Section 17.3 Process where the PSAA requests to have questions put to the PMD or witness).

## 17.0

### Reliability and accuracy check Introduction

A reliability and accuracy check is the thorough examination and testing by the CASP social worker of the reliability, plausibility, and consistency of a disclosure a person is making. This may involve exploring the extent to which the person's disclosure is consistent with any available evidence and may involve seeking the person's response to any denials made, any alternative versions of events provided, or other issues raised by the PSAA.

#### 17.1 | Where Reliability and Accuracy Check is required

If a PSAA has denied the allegations, or put forward an alternative version of events, the CASP social worker must consider carrying out a reliability and accuracy check by putting this to the PMD. The decision to do so should be fair, reasonable, and proportionate, based on the circumstances of the individual case and the reasons should be carefully recorded. The CASP social worker should consider the circumstances and sensitivities of the PMD before engaging with them.

The CASP social worker should keep in mind that strong, consistent evidence will be necessary to ground a founded outcome if it is deemed necessary to engage with the PMD to check the reliability and accuracy of their account, but it has not been possible to do so.

If a decision is made to carry out a reliability and accuracy check on the allegations, the CASP social worker should consider clarifying with the PSAA or their legal representatives if there were any issues they would like to be explored with the PMD.

#### Considerations for reliability and accuracy check where PMD is a child:

The CASP social worker should consider the following factors when deciding whether to meet with a child to put the PSAA's version of events to them:

- a) The child's age and stage of development

- b) The time elapsed between the initial interview with the child about the alleged abuse and the proposed interview with the child to put the PSAA's version of event to them. Long delays between repeated interviews may reduce the accuracy of new information from a child but short delays between interviews may not (see The Effects of Repeated Interviewing on Children's Forensic Statements of Sexual Abuse, I. Hershkowitz, A. Terner, December 2007).

- c) The possibility of re-traumatising the child, particularly in respect of serious allegations.

- d) The vulnerabilities of the child.

- e) The number of times that the child has been interviewed - Re-interviewing a child about information already obtained within another interview format is widely discouraged. (APSAC, 2012; Merchant & Toth, 2006; NCA, 2016; Saywitz & Comparo, 2009).

Engage with the child (and their parents if the PMD is a child) or guardians when considering the need to meet with the child to put the PSAA's version of events to them.

#### 17.2 | Guiding principles where the PSAA requests to have questions put to the PMD or witness

If the PSAA requests to have questions put to the PMD or a witness, this request must be considered by the CASP social worker in a fair and proportionate manner. The CASP social worker will consider the means through which this might be achieved. The manner and form in which this is to happen is a decision for the CASP social worker.

Direct questioning of the PMD or witness by the PSAA should generally be avoided particularly if the PMD or witness is a child. However, an adult PMD, the parents of a child PMD, or a witness, may not necessarily be resistant to direct questioning by the PSAA or their legal representative. Therefore, the CASP social worker should seek their view of how this questioning might be managed.

Even if a child PMD or witness and their parents are agreeable to direct questioning of the child by the PSAA or their legal representative, the CASP social worker should still consider if it is more appropriate for the CASP social worker themselves to put an agreed set of questions to the child. If this is not acceptable to the PSAA, the CASP social worker should consider alternative ways of having the questions put to the PMD or witness (see Table 1 Alternative means of having questions put to the PMD or witness).

The PMD or witness always has the right to refuse to be directly questioned by the PSAA or their legal representative. Tusla cannot compel the PMD or a witness to have questions put to them by or on behalf of the PSAA. If the PSAA wishes to directly question the PMD or witness and the CASP social worker determines this is not appropriate, or the PMD or witness refuse, then the CASP social worker will consider alternative means to have the questions put to them.

### 17.3 | Process where the PSAA requests to have questions put to the PMD or witness

#### Engagement with PSAA

If the PSAA requests to have questions put to the PMD or witness the CASP social worker will engage with the PSAA about their request. The CASP social worker will:

- consider the PSAA's request in a fair and proportionate manner. The manner and form in which this is to happen is a decision for the CASP social worker.

- consider the appropriateness and relevance of the questions the PSAA wishes to put to the PMD or witness.
- seek agreement of the PSAA that the CASP social worker will put an agreed set of questions to the PMD or witness. Explain that, following the interview, the CASP social worker will provide a written account of this interview to the PSAA.
- if the PSAA is not satisfied with this means of having their questions put to the PMD or witness, the CASP social worker will consider the PSAA's reasons for this. The CASP social worker will engage with the PMD or witness in relation to alternative means of having the questions put to them (see Table 1 Alternative means of having questions put to the PMD or witness).

#### Engagement with PMD

The CASP social worker will also engage with the PMD in relation to the PSAA's request.

The CASP social worker should:

- seek the views of the PMD as to how this request might be managed. In particular, seek the agreement of the PMD or witness that the CASP social worker will ask them an agreed set of questions. The CASP social worker will inform the PMD or witness that they will provide a written account of this interview to the PSAA.

- explain that, if the PSAA is not satisfied with this means of having their questions put to the PMD or witness, the CASP social worker will consider the PSAA's reasons for this and will engage with the PMD or witness in relation to alternative means of having the questions put.
- give the PMD information about the alternative ways in which this can be done and seek the views of the PMD or witness about this. (See Table x Alternative means of having questions put to the PMD or witness)
- explain that a refusal to engage in a further interview may have an impact on the substantiation assessment, where the CASP social worker determines this is necessary as part of a reliability and accuracy check.

#### Where the CASP social worker is considering ways in which questions may be put to the PMD or witness:

If the PSAA is not satisfied with the CASP social worker putting their questions to the PMD or witness, the CASP social worker will consider alternative ways in which questions may be put to the PMD or witness. The CASP social worker should not make any arrangements for the PSAA or their legal representative to question or observe the PMD or witness without discussing this with their line manager and reaching agreement from the PMD or witness. It may also be necessary for their line manager to seek legal advice before any arrangement is made for the PSAA or their legal representative to observe or put questions to the PMD or witness.

If the PSAA is not satisfied with the CASP social worker putting an agreed set of question to the PMD or witness the CASP social worker will:

- consider the reasons why the PSAA has rejected the CASP social worker putting an agreed set of questions to the PMD or witness
- engage with the PSAA and PMD or witness and seek their views in relation to alternative means of having the questions put, with reference to the table below
- explain the alternative means by which the questions could be put
- consider the age and any vulnerability of the PMD or witness when determining the appropriateness of each alternative

**Table 1 Alternative means of having questions put to the PMD or witness**

Alternative	Alternative means of having questions put to the PMD or witness	Before putting in place alternative means for having questions put to the PMD or witness the CASP social worker will:
A	Giving the PSAA access to an audio recording of the CASP social worker’s interview with the PMD or witness.	<ul style="list-style-type: none"> <li>consider why the PSAA has rejected receiving a written account of the CASP social worker’s interview with the PMD or witness</li> <li>explain alternative A to the PSAA and PMD or witness</li> <li>consider age and any vulnerabilities of PMD</li> <li>seek agreement from the PSAA and PMD or witness to engage in this alternative.</li> </ul>
B	Provide the PSAA and or their legal representative with an opportunity to observe the CASP social worker’s interview with the PMD or witness using video link or teleconference.	<ul style="list-style-type: none"> <li>consider why the PSAA has rejected alternative A</li> <li>explain alternative B to the PSAA and PMD or witness</li> <li>consider age and any vulnerabilities of PMD</li> <li>seek agreement from the PSAA and PMD or witness to engage in this alternative.</li> </ul>
C	Provide the PSAA and or their legal representative with the opportunity to be physically present to observe the CASP social worker’s interview with the PMD or witness in an appropriate setting	<ul style="list-style-type: none"> <li>consider why the PSAA has rejected alternatives A &amp; B</li> <li>explain alternative C to the PSAA and PMD or witness</li> <li>Consider age and any vulnerabilities of PMD</li> <li>Seek agreement from the PSAA and PMD or witness to engage in this alternative.</li> </ul>
D	Provide the PSAA or their legal representative with the opportunity to question the PMD or witness and the PSAA to be physically present to observe the interview in an appropriate setting	<ul style="list-style-type: none"> <li>consider why the PSAA has rejected alternatives A, B &amp; C</li> <li>explain alternative D to the PSAA and PMD or witness</li> <li>Seek agreement from the PSAA and PMD or witness to engage in this alternative.</li> <li>Consider age and any vulnerabilities of PMD</li> <li>consider using a screen to separate the PSAA from the PMD or witness being questioned.</li> <li>consider the relevance of the questions to be put to the PMD or witness before the interview</li> </ul>
E	Provide the PSAA with the opportunity to be physically present to directly question the PMD or witness in an appropriate setting	<ul style="list-style-type: none"> <li>consider why the PSAA has rejected alternatives A, B, C &amp; D</li> <li>explain alternative E to the PSAA and PMD or witness</li> <li>Seek agreement from the PSAA and PMD or witness to engage in this alternative.</li> <li>Consider age and any vulnerabilities of PMD</li> <li>consider using a screen to separate the PSAA from the PMD or witness being questioned.</li> <li>consider the relevance of the questions to be put to the PMD or witness before the interview</li> </ul>

**What happens if the PSAA is not satisfied with how the questions have been put to the PMD or witness?**

Working with the co-operation of both the PMD or witness, and the PSAA in these situations is important. Having put questions to the PMD or witness, either by way of interview with the CASP social worker or other means, the CASP social worker will determine if they have been able to test the reliability and accuracy of the account.

**What happens if CASP social worker determines that direct questioning is not required**

If the PSAA is dissatisfied that they have not been able to directly question the PMD or witness the CASP social worker should continue with the substantiation assessment, provided the CASP social worker has determined that they have been able to carry out a reliability and accuracy check using one of the alternative means.

# 18.0

## Factors to consider in reaching a founded or unfounded outcome

### 18.1 | Balance of probabilities

Saying something is proven on ‘the balance of probabilities’ means it has been determined that it is more likely than not to have happened. In court cases, “the balance of probabilities” is often explained to juries as “which story is the more likely”. This is not the higher standard of proof for criminal prosecution, which is ‘beyond a reasonable doubt’.

In a CASP case, **the standard of proof is not as high as in criminal cases.** In criminal cases, the accused is entitled to an acquittal if the prosecution has not established his or her guilt beyond reasonable doubt. What this means is that if there is any doubt in the minds of a jury then the accused is entitled to the benefit of that doubt and must be found not guilty.

In deciding whether allegations are founded or unfounded on the balance of probabilities, account needs to be taken of:

- any oral evidence, especially from people who witnessed the alleged events
- any documentation or records from the time of the alleged event
- any circumstantial evidence tending to support one account rather than the other and
- any motivations of the PMD and any witnesses.

The CASP social worker should consider the likelihood or not of the event having occurred. The more unlikely the event, the stronger the evidence must be to establish on the balance of probabilities that it occurred.

## 18.2 | Factors for consideration when assessing the information gathered

It is not intended here, even if it were possible, to set out all factors that may be relevant in deciding if the allegation is founded or unfounded. Each case is unique, and the variety of human experience and behaviour so great that it would be impossible to make a comprehensive list of all possible considerations which could arise. Issues which arise may include the following:

### 18.2.1 | The need to be trauma aware

The CASP social worker should be aware of the range of a person's possible responses to physical, emotional, sexual abuse and neglect. People who have experienced abuse can present with certain signs of trauma which the CASP social worker must consider in their assessment of the allegation.

The CASP social worker should consider if there is a pattern, or history of behaviours and presentations that may be linked to a person's experience of abuse and or neglect. Whilst these presentations and behaviours may indicate that the PMD experienced abuse, these factors alone, would not be sufficient to reach a founded outcome.

### 18.2.2 | Context

It is important to consider the context in which the alleged abuse took place and not just the specific allegations of the abuse. Exploring the context of the allegations of abuse, allows the CASP social worker to confirm the possibility, or not, that the PMD and PSAA were known to each other and had contact with each other.

Consider what has led to the PMD's disclosure being made and the circumstances that have preceded the PMD's disclosure.

Consider the nature of the relationship between the PMD and the PSAA.

- How are the PMD and PSAA known to each other?
- Can this be established (through timelines or a genogram, which is a picture of a person's family relationships and history)?
- Did or does this connection contribute to the PSAA's access to the PMD?
- Can this information be verified through other means, such as interviewing other people?
- Does the information and documentation gathered confirm the context within which the alleged abuse took place?

### 18.2.3 | Event details

When interviewing the PMD, the CASP social worker should explore and document details of the disclosure of abuse. They should explore with the PMD the details of where and when the alleged abuse took place; the nature, frequency, and duration of the alleged abuse; and, if relevant, any details of how it is alleged the PSAA maintained the PMD's compliance and or secrecy (that is, by coercion, threats, bribes, and so on).

The details sought and gathered may include perception; verbal reconstruction; details of the environment; details of actions; unusual details; the identification of any objects that were used in the alleged abuse; and sensory details, such as tastes, smells, sights, and sounds.

### 18.2.4 | Peripheral details

The CASP social worker should explore and consider details relating to the surroundings of a person's disclosure of abuse. Peripheral details can provide information that is unique to a person's disclosure, such that the PMD may provide additional information that may support the context of the alleged abuse. For example, the PMD may be able to describe what season it was, or if it was bright or dark at the time of the alleged incident; or what furnishings, decorations, landmarks and so on, that they could see around them at the time of the alleged abuse.

Research shows that it is not unusual for loss of information and other distortions during memory recall to apply to 'peripheral details'. Therefore, any weight attributed to such details gathered in a substantiation assessment must be carefully considered when reaching an outcome.

### 18.2.5 | Social and family environment

The CASP social worker should consider the social and family environment within which the alleged abuse took place, and any information relating to either the PMD's or PSAA's social and family environments that existed before or after the alleged abuse. Understanding the environment of both the PMD and the PSAA will help the CASP social worker in understanding if the occurrence of the alleged abuse event was possible or not.

The CASP social worker should consider if the pattern of alleged abuse is likely, and if the circumstances relating to the social and family environment within which the alleged abuse took place allowed an act of alleged abuse to occur. Explore if there were any witnesses or people nearby when the alleged abuse took place. Explore if there is a history of mistreatment, neglect, abuse, or conflict within either the PMD or the PSAA's family home or social and family environment. Explore if the PMD disclosed the alleged abuse to anyone and

if anything within the PMD's family or social circumstances changed after they disclosed.

Family conflict may potentially present a motivation for false disclosures to be made. Such information may diminish or support the reliability of the PMD account and must be considered carefully when determining an outcome.

Factors such as any substance abuse or mental health problems should be considered in the context of the PMD's disclosure. Information about such factors will only have been sought if there were reasonable grounds for seeking it. Careful consideration must be given to referring to these factors and information when reaching an outcome.

It is important for the CASP social worker to critically assess and understand that such matters may add to, or detract, from the reliability of the PMD's account. Evidence of any substance abuse or past behavioural issues may show that the PMD has faced difficulties or has been abused but may not necessarily provide enough information to determine that the abuse was perpetrated by the PSAA.

### 18.2.6 | Unique/Idiosyncratic Information

Unique or idiosyncratic information is information that is specifically relevant to either the PMD or the PSAA as well as the context of the alleged abuse. For example, personal details in relation to the PSAA that may or may not be generally known but can be verified include past injuries, scars, tattoos, and so on. The CASP social worker should explore and consider any information provided by the PMD's disclosure and by the PSAA's response that may be specific to the context, environment or peripheral details gathered. Such information may either support or detract from the reliability of a disclosure of abuse, and, therefore, is a key consideration when carrying out a reliability and accuracy check.

### 18.2.7 | Emotional reaction consistent with the abuse being described

Emotional reactions need to be considered carefully. There will be a variety of emotional responses depending on several factors, including the PMD's relationship with the PSAA, the nature and context of the alleged abuse, the PMD's gender and age (if they are a child, adolescent, or an adult), and so on. The CASP social worker should consider any possible presentations or underlying diagnosis or diagnoses that may alter or distort emotional responses to significant traumatic incidents.

### 18.2.8 | Reliability and accuracy check

Consider if the PMD has been consistent in their disclosure and, if not, whether the inconsistencies can be explained. Consider if the PMD's account is reliable and accurate. This may involve exploring the extent to which the PMD's disclosure is consistent with any available evidence. Consider if it has been necessary to ascertain the PMD response to any denials made, alternative versions of events provided by the PSAA, or other issues raised by the PSAA. Where it has been deemed necessary to re-engage with the PMD to check the reliability and accuracy of their account, but where it has not been possible to do so, strong consistent evidence will be necessary to ground a founded outcome.

### 18.2.9 | Witness accounts consistent with accounts provided by the PMD and or the PSAA

The CASP social worker should carefully consider any information provided by people who may have witnessed the alleged abuse and or have information that either supports or detracts from the accounts given by the PMD and the PSAA in relation to the alleged abuse.

When assessing accounts given by witnesses, consider if the witness has been

consistent in providing their response and, if not, whether the inconsistencies can be explained. It should be considered if any witness is exaggerating, or has difficulty recalling events, or is either hostile to or friendly with the PSAA or PMD, or may be unreliable for some reason. The CASP social worker should consider if a witness has a motive for giving a false account.

### 18.2.10 | Documentation that supports the PMD's or PSAA's account

The PMD or PSAA may be able to produce information and documents, for example diaries, letters, images, text messages, notes from the time of the alleged event that confirm details or support the description of an incident or their version of events.

### 18.2.11 | Medical or psychological evidence of abuse or trauma as determined by an expert

This includes medical evidence such as documentation, correspondence, or reports detailing: pregnancy, sexually transmitted diseases, medical evidence, X-rays, hospital visits, mental health issues, general practitioner visits and psychological and counselling support. Careful consideration must be given to seeking or referring to these factors and information when reaching an outcome. Some of the information, such as medical evidence or therapeutic supports being received by the PMD, may indicate that the PMD has been abused. While this may indicate that the PMD experienced abuse, these factors on their own may not necessarily provide enough information to determine that the abuse was perpetrated by the PSAA.

In the context of allegations of sexual abuse, the absence of medical findings – which occurs in most cases – does not rule out that abuse has occurred.

### 18.2.12 | An admission on the part of the PSAA

Sometimes there can be an acknowledgement of abusive behaviour by the PSAA. This would, under normal circumstances, substantiate that abuse has taken place. However, there are a range of responses to allegations of abuse with elements of acceptance and denial that can change over time. These may include the PSAA:

- admitting the behaviour but not considering it to be abusive
- admitting the behaviour but saying it was 'therapy' or 'education'
- admitting the behaviour but thinking it didn't hurt the child
- admitting the behaviour but minimising the extent or frequency
- admitting the abusive acts but blaming the child
- admitting the abusive acts but blaming others
- blaming other factors (medication, 'blackouts', alcohol, and so on)
- saying that if improper touching happened it was by accident

(Underwager and Wakefield 1999)

It is also important to consider if there are grounds for believing that the admissions may not be reliable considering all the circumstances of the case, including the age, mental capacity, mental state, and apparent understanding of the PSAA.

### 18.2.13 | The response offered by the PSAA lacks foundation and reliability.

The PSAA is not obliged to meet with the CASP social worker or to provide any response to the allegations. If the PSAA chooses not to respond, the CASP social worker will have to reach an outcome without the benefit of their input. The CASP social worker cannot give additional weight to the account of the PMD or any witness based on the PSAA's lack of response.

If the PSAA has provided an explanation or response, the CASP social worker should carefully consider the PSAA's account in light of all the information gathered in the assessment.

#### 18.2.14 | A verdict in a criminal trial during a substantiation assessment with respect to the allegations under assessment

Where a PSAA is convicted of an offence that is consistent with the detail of the allegation under assessment, considerable weight can be given to this fact when determining an outcome.

The CASP social worker must ensure that the detail of the criminal conviction and the detail of the allegation under assessment are the same.

If a verdict of not guilty is returned, the CASP social worker should keep in mind that the standard of proof in a criminal prosecution is “beyond reasonable doubt”. This is a higher standard than that applied in a CASP assessment where the standard of proof is the balance of probabilities.

#### 18.2.15 | Director of Public Prosecutions (DPP) decision not to proceed with a criminal charge

A decision by the Director of Public Prosecutions (DPP) not to proceed with a case is an indication that the DPP is not satisfied the case can be proven beyond a reasonable doubt. However, that does not mean that the balance of probabilities standard cannot be reached. The DPP

decision not to proceed with the criminal charge does not take away from Tusla’s statutory obligation to protect children under the Child Care Act 1991.

#### 18.2.16 | Consideration of child abuse allegations made in custody disputes

These can be very difficult situations in which to determine whether the allegations are founded or unfounded. In these circumstances, it may be difficult to gather objective and reliable information. The CASP social worker should approach the assessment of the allegations in such circumstances with an open mind and be familiar with the relevant literature associated with such cases (Wakefield, H. “Sexual Abuse Allegations in Custody Disputes”. 2004 J.M. Craig Press, Inc.).

The CASP social worker should consider the family dynamics and the timing and circumstances surrounding the disclosure. Possible motivational factors to falsify a disclosure of abuse and any pre-existing biases on the part of those who may have reported the abuse or who have discussed the alleged abuse with the PMD should be explored.

## 19.0

### Provisional Conclusion

The CASP social worker will reach a provisional conclusion once all relevant information and documentation gathered as part of the assessment has been carefully assessed.

The CASP social worker must reach a provisional conclusion which is made up of the following:

- The outcome of either founded or unfounded.
- In the case of a founded outcome, a determination about the likelihood of potential risk of harm to children (see section 20.2 Assessment of risk and safety planning).
- The reasons for the provisional conclusion.

#### 19.1 | Before reaching a provisional conclusion

The CASP social worker must be able to demonstrate that they have:

- sought and obtained relevant information and documentation from the PMD, the PSAA, any witnesses and other relevant people to adequately reach an outcome about the alleged abuse.
- cross-referenced relevant information from one source with information provided by other sources.
- provided the PSAA with all relevant information and documentation and given an opportunity to respond.
- afforded the PSAA fair procedures and taken a full account of their response to the allegations, including all information or documentation supporting their account.
- put the PSAA’s account to the PMD and or witness for their comment (where appropriate and necessary).

- assessed the allegation based on a clear understanding of this procedure, Children First, the Child Care Act 1991, the Child and Family Agency Act 2013, relevant case law, and Tusla policy.

Once the CASP social worker is satisfied that they can demonstrate all the above they can proceed to making a provisional conclusion.

#### 19.2 | Outcomes

The CASP social worker can reach either of the following outcomes as part of the provisional conclusion:

- **Founded Outcome:** The outcome of a substantiation assessment where it is established on the balance of probabilities that child abuse has occurred.
- **Unfounded Outcome:** The outcome of a substantiation assessment where it is **not established** on the balance of probabilities that child abuse has occurred.

#### 19.3 | Detailed reasons for the provisional conclusion

The CASP social worker must set out in writing the detailed reasons for the provisional conclusion, which includes the outcome and, where outcome is founded, an assessment of risk. The CASP social worker must discuss the provisional conclusion of the substantiation assessment with their line manager.

### 19.4 | Notifying the PSAA of the provisional conclusion

The CASP social worker must notify the PSAA (and their parents if the PSAA is a child) in writing of the provisional conclusion and advise them that they may respond by a specified date.

The PSAA should be informed that if they put forward any comments or new information, these will be considered, and that if there is none forthcoming, the provisional conclusion will be deemed to be the final conclusion by a specified date (allow a maximum of 28 days). Urgent protective actions will not be delayed if it is determined that there is an immediate serious risk of harm to a child(ren).

All correspondence with the PSAA should be sent securely in accordance with the CASP Data Protection Guidance.

When writing to the PSAA to notify them of the provisional conclusion, the CASP social worker must again inform them of their rights under data protection and provide a copy of the CASP Data Protection Notice.

## 20.0

### Final Conclusion

The final conclusion is reached once any representation or additional information provided by the PSAA in response to the provisional conclusion has been considered, assessed and any follow-up enquiries have been undertaken.

#### 20.1 | Outcomes

The CASP social worker can reach one of two possible outcomes as part of the final conclusion:

- **Founded:** The outcome of a substantiation assessment where it is established on the balance of probabilities that child abuse has occurred.
- **Unfounded:** The outcome of a substantiation assessment where it is not established on the balance of probabilities that child abuse has occurred.

#### 20.1.1 | If the outcome of the final conclusion is founded

The CASP social worker must outline:

- the rationale for the founded outcome reached.
- the consideration of any comments or information provided by the PSAA in responses to the provisional conclusion.
- the consideration of and determination of risk of harm, if any, posed by the PSAA to children.
- the requirement to notify third parties of any child protection concerns.

#### 20.1.2 | Where the outcome of the final conclusion is unfounded\*

The CASP social worker must outline:

- the rationale for the outcome reached
- the consideration of any comments or information provided by the PSAA in responses to the provisional conclusion.

### 20.2 | Assessment of risk and safety planning

If the outcome is founded, the CASP social worker is required to determine the likelihood of potential risk of harm the PSAA poses to children. Any potential risk of harm to identified children will need to be considered and managed by the Tusla area child protection social work team.

Whether abuse is founded or unfounded, the level of risk of harm for a child in any circumstance must still be considered and, if it is determined that a child is at risk of harm, an effective safety plan must be put in place to ensure the child's on-going safety.

This is essential as not all cases of abuse can be substantiated, due to a lack of evidence. However, this does not mean that a child is safe. Additionally, abuse might be founded, but the presenting circumstances may indicate that there is no current risk of harm from the PSAA.



#### Key information Issues specific to adult and child PSAA's

Where the outcome is unfounded, in general, the PSAA will not be determined to be a risk of harm to children. However, Tusla's statutory duties and functions are to ensure the protection and welfare of children, and there may be exceptional circumstances where the CASP social worker is of the professional opinion that a child(ren) is at risk of harm, notwithstanding an unfounded outcome. Where the outcome is unfounded, and the CASP social worker has a concern that a child(ren) is at risk of harm, an effective safety plan may be required to protect a child(ren). Any intention to safety plan for the safety of a child(ren) in these circumstances, must be discussed with the line manager and approved by the principal social worker. Advice should be sought from Tusla Office of Legal Services

### 20.2.1 | Social work assessment of risk

Where the provisional and or final conclusion contains an outcome that the allegations of child abuse are founded, the CASP social work assessment should determine the likelihood of potential risk of harm the PSAA poses to identified or yet-to-be-identified child(ren). Based on the available information, the CASP social work assessment should provide a thorough overview of the presenting situation and highlight any areas of concern requiring intervention or a more in-depth assessment.

In determining the potential risk of harm to children the CASP social worker will rely on their professional knowledge and understanding of risk of harm to child(ren), supported by evidence-based theory and research pertaining to assessing risk of harm.

At the final conclusion stage, a decision may be made that a more substantial assessment of risk in relation to the PSAA is required. This may occur where a founded outcome has been reached, but the current risk of harm presented by the PSAA to children is not sufficiently clear from the information provided and gathered during the substantiation assessment. It may also be required where the PSAA admits to the abuse during the substantiation assessment or where there has been a conviction for child abuse.

#### 20.2.2 | Forensic Risk Assessment

Forensic risk assessment is concerned with judging how likely it is that someone will take part in antisocial or criminal behaviour. These types of assessment are mostly undertaken when an individual has been found guilty of a crime. Forensic risk assessments are best used with a person who has been convicted or has admitted to an offence. It is not appropriate to use them outside of this context.



### 20.3 | Notifying the PSAA of the final conclusion

The PSAA (and their parents, if the PSAA is a child) should be informed of the final conclusion of the substantiation assessment and rationale for same in writing. In addition, in the case of a founded outcome, the CASP social worker will notify the PSAA of:

- the assessment that the CASP social worker has made regarding the likelihood of potential risk of harm the PSAA may pose to a child(ren), and or any actions required from the PSAA to address this risk.
- any decision which has been taken regarding notifying relevant third parties, where the PSAA does not take the actions required to address the potential risk of harm to children or indicated that they will not do so.

#### 20.3.1 | Inform the PSAA of the option for a review and what it means

Where the outcome is founded:

- provide an opportunity for the PSAA to request a review of the final conclusion (see Part C). The letter should note that any such review will not delay or prevent Tusla from taking any action it deems necessary to protect the welfare of any child determined to be at immediate serious risk of harm from the PSAA.
- inform the PSAA that they must request the review within 14 days of receipt of the final conclusion.
- inform the PSAA if they do not request a review, the final conclusion of founded will stand.

#### 20.3.2 | Inform the PSAA of the implications of a final conclusion

If the final conclusion includes a founded outcome and if it is determined there

is a potential risk of harm to a child or children, actions may be taken by the CASP social worker in respect of informing relevant third parties.

If a review has not been requested, the PSAA will have an opportunity to inform any relevant third party themselves by a specified date, unless doing so may put a child at risk of harm before Tusla notifies the relevant third party.

The CASP social worker must make it clear that the relevant third party will be notified of the child protection concerns both verbally and in writing, by the CASP social worker, after the specified date. Indicate the date by which this will happen. Any letter to a relevant third party informing them of the child protection concerns must also be copied to the PSAA.

#### 20.3.3 | Inform the PSAA of their data protection and privacy rights

The CASP social worker must inform the PSAA (and their parents, if the PSAA is a child) of their rights under data protection and provide a copy of the CASP Data Protection Notice. They must also ensure all correspondence to the PSAA is sent in line with the CASP Data Protection Guidance.

### 20.4 | Actions following the final conclusion

When a final conclusion is reached the CASP social worker will:

- inform An Garda Síochána, in writing, of the final conclusion of the substantiation assessment and update them in respect of any ongoing safety plan or review brought by the PSAA.
- inform the PMD (and their parents, if the PMD is a child) of the final outcome of the substantiation assessment if it is unfounded.

- if the outcome is founded, only inform the PMD of the outcome after the 14-day timeframe for the request of a review has elapsed. If the PSAA has requested a review, the PMD will only be informed of the outcome once the review is complete. The PMD, (or their parents, if the PMD is a child) will not be informed about any determination of risk of harm that has been made.

- offer the PMD an opportunity to meet with the CASP social worker to be informed of the final outcome of the substantiation assessment. Written confirmation of the decision should also be provided to the PMD.

- inform the PMD (or their parents, if the PMD is a child) that they are entitled to put a complaint in writing using Tusla's 'Tell Us' complaints procedure if they believe they have been treated unfairly. The Tusla 'Tell Us' complaints policy should be provided to them.

- notify those relevant third parties, who were notified of child protection concerns during a substantiation assessment, of the final outcome.

- notify the child's allocated social worker, the fostering link social worker, the principal social worker for fostering and the area manager of the conclusion of the substantiation assessment in cases where the substantiation assessment was in respect of a foster carer(s), and supported lodgings providers.

### 20.5 | Closing a CASP case

When a CASP assessment and a review (if requested) are complete, and no further action and or intervention is required:

- the case record on the PMD is closed and the PMD (and their parents, if the PMD is a child) is informed in writing of the decision and case record closure.

- the case record on the PSAA is closed and the PSAA (and their parents if the PSAA is a child) is informed in writing of the case closure decision together with details of Tusla's Records Management Policy (which determines the records retention schedule and policy).

### 21.0 | Notifying a relevant third party after a founded outcome

#### 21.1 | The circumstances where a relevant third-party notification will occur

The notification of a child protection and welfare concern to a relevant third party will occur in one of two circumstances:

- a) if, at any stage of the assessment, a child is determined to be at immediate serious risk of harm and there is a need for immediate action to protect a child (see Section 4.0 A child's right to be safe from harm),

or

- b) if a founded outcome is reached as part of the final conclusion, and it is determined that the PSAA poses a risk of harm to a child(ren), and it is necessary to inform a relevant third party to keep the child(ren) safe.

If the final conclusion contains a founded outcome the PSAA may request a review. However, this should not delay notifying a relevant third party where a child(ren) is determined to be at immediate serious risk and there is a need for immediate action to protect a child (see Section 4.0 A child's right to be safe from harm).

If the CASP social worker determines that relevant third parties should be notified after a founded outcome, other than in cases of immediate serious risk of harm, steps to notify relevant third parties should not be taken until after the 14-day timeframe for the request of a review has elapsed. Where a review has been

requested, relevant third parties should not be notified until after the review process, and in that case only if the review panel has upheld the founded outcome.

The PSAA (and their parents, if the PSAA is a child) should be offered the opportunity to inform any relevant third party themselves unless to do so would put a child at risk of harm.

If a PSAA wishes to inform a relevant third party themselves, the CASP social worker still has an obligation to contact the relevant third party regarding the founded outcome and next steps.

### 21.2 | Actions when notifying a relevant third party

The CASP social worker must:

- determine what information will be shared with the relevant third party. Information must be accurate and specific rather than general. A relevant third party must only be provided with the minimum amount of information necessary to ensure the protection and well-being of a child(ren) in their care. The exact nature of the information to be provided to the relevant third party should be agreed in advance with the CASP social worker's line manager. The identity of the PMD should not be disclosed to the relevant third party.
- determine what level of co-operation is to be sought from the PSAA in relation to any safety planning.
- arrange to meet the relevant third party with a colleague.
- provide written information in relation to the nature of the concerns to the relevant third party.
- engage with the relevant third party to discuss the steps that they will take to ensure the ongoing safety of any child(ren) under the care or responsibility of the relevant third

party. These steps may be required on an ongoing basis.

- confirm that Tusla's role is to consider if the response and actions taken by the relevant third party are enough to protect identified or identifiable children, or if Tusla needs to act itself to protect the child(ren). Tusla cannot direct relevant third parties on steps to be taken.
- document the discussion with the relevant third party about the steps that they will take to ensure the ongoing safety of any child(ren) under their care or responsibility.
- obtain a written copy of the relevant third party's plan to ensure the ongoing safety of any child(ren) under their care or responsibility.
- make it clear to the relevant third party where the PSAA is employed, or is undertaking voluntary activities and the relevant third party is making decisions in relation to the PSAA's involvement in those, working arrangements or employment status, that any decisions to be made are the responsibility of the relevant third party alone. The CASP social worker's role is to indicate if the child protection plan is adequate.

If not already completed, a specified information notification should be made in accordance with the requirements of the Section 19 of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012. See Tusla Policy and Procedure for Specified Information Reports to the National Vetting Bureau.

It may be necessary to notify the outcome of a substantiation assessment to a professional registration body where the PSAA is employed in a registered professional capacity.

The reasons for all these decisions should be carefully documented.

# Part C

## Procedure for conducting a review in accordance with the CASP

# 22.0

## Introduction to the Review Process

The purpose of Part C is to outline the procedure for conducting a review and to set out the responsibilities of the area manager, CASP principal social worker and those of the members of the review panel.

The option of a review of the substantiation assessment must be offered to the PSAA where a “founded” outcome has been reached. This review is a ‘review for error’. It is an impartial examination of the work which has been undertaken by the CASP social worker. It does not involve a full re-assessment of the allegations. The review will be undertaken

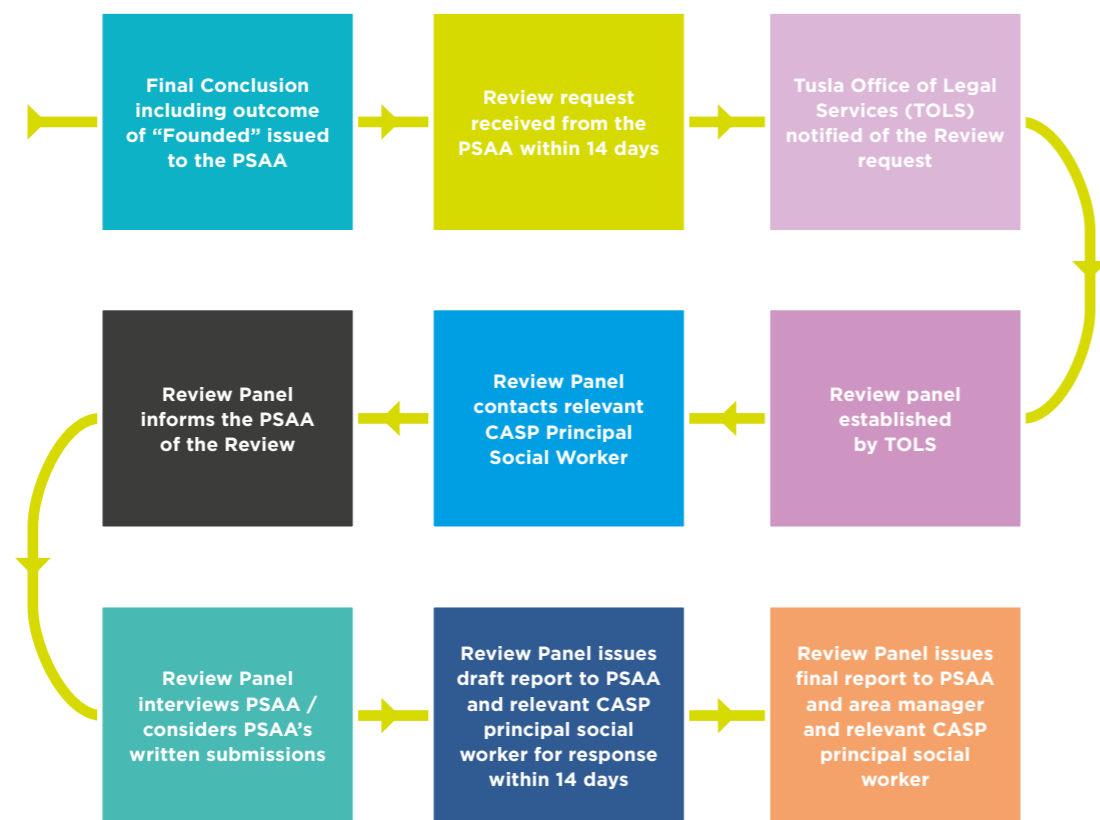
by two review panel members who are independent and external to Tusla. The review panel members will examine the professional decision-making leading to the final conclusion of the substantiation assessment and in doing so will examine:

- if there was a sustainable basis for the final conclusion (meaning that it was not clearly in error)

and

- if adequate fair procedures were afforded to the PSAA in the substantiation assessment.

### 22.1 | Illustration map for the Review Process



# 23.0

## When a review may be sought

Once a substantiation assessment has been carried out and the final conclusion reached, the option of a review of the substantiation assessment must be offered to the PSAA where the final conclusion includes a “founded” outcome.

It is, therefore, essential that all PSAAs who are the subject of a founded outcome are advised of their right to seek a review.

Providing a review should not in any way distract or delay Tusla from taking any steps that it needs to take where it is determined that there is an immediate serious risk of harm to a child or children. Where it is not determined that a child or children are at immediate serious risk of harm, notifying relevant third parties will not be considered until conclusion of the review process.

# 24.0

## Establishing a review panel

### 24.1 | Standard terms of reference of the review panel

The standard terms of reference of the review require the review panel to:

#### 1. Carry out the review

Carry out the review in accordance with Part C of the CASP.

#### 2. Examine decision-making

Examine the professional decision-making leading to the final conclusion of the substantiation assessment to establish if there was a sustainable basis for the final conclusion (meaning that it was not clearly in error).

#### 3. Examine if fair procedures were applied

Examine if the PSAA was afforded adequate fair procedures in the substantiation assessment.

#### 4. Reach a conclusion on the substantiation assessment

Reach one of the following conclusions in relation to the substantiation assessment:

- To uphold the final conclusion of the social work substantiation assessment, or
- To set aside the final conclusion of the substantiation assessment and to send the matter back to Tusla to undertake a new assessment if appropriate.

#### 5. Report

To prepare a report in relation to the professional decision-making and or fair procedure issues raised in accordance with the CASP and to provide that report to the area manager, relevant CASP principal social worker and the PSAA.

#### 6. Keep to schedule

To ensure that the time limits set out in Part C the CASP are complied with and that the review is completed as soon as is practicable consistent with conducting the review thoroughly and fairly.

# 25.0

## Preparing to conduct a review

Within five days of being appointed, the chairperson of the review panel will write to the relevant area manager, CASP principal social worker and the PSAA to advise them that they have been appointed.

### 25.1 | CASP principal social worker's role in the review

The CASP principal social worker will be asked to ensure that the following tasks within 15 days of being notified of the review panel's appointment::

#### **Ensure that all relevant information and documentation has been appropriately redacted before being sent to the review panel**

The relevant information and documentation that is to be provided to the review panel will have been appropriately redacted by the original CASP social worker during the substantiation assessment process in accordance with the guidance contained in the CASP Data Protection Guidance. The relevant CASP social work team leader should ensure that the relevant information and documentation has been appropriately redacted.

#### **Relevant information and documentation to be supplied to the review panel**

All relevant information and documentation gathered by the CASP social worker in the substantiation assessment must be provided to the review panel. The relevant CASP principal social worker will provide this to the review panel in booklet form by way of an indexed and paginated copy of the Final Conclusion Report previously given to the PSAA.

This booklet should include copies of all records concerning the assessment and decision-making, including any submissions or representations submitted by the PSAA. This booklet is to be provided to the PSAA by the review panel.

#### **Access to the relevant information for each review panel member.**

The review panel will have access to the relevant CASP assessment on TCMS (Tusla Case Management System) where the relevant information and documentation gathered as part of the substantiation assessment can be reviewed. Relevant information and documentation includes copies of all relevant records concerning the assessment and decision-making, including any submissions or representations submitted by the PSAA.

#### **Liaison with the review panel**

The relevant CASP principal social worker will act as liaison between the Tusla area and members of the review panel. They will take responsibility for the preparation of records for the review panel and follow-up any requests for further information or other assistance.

### 25.2 | Adherence to the timeline of 15 days

It is important to provide the review panel with the relevant information and documentation as described in the review process. If this is not supplied to the review panel within the required 15-day timeline, the matter will be referred to Tusla Office of Legal Services, who will raise the matter with the relevant CASP principal social worker or more senior staff as required..

# 26.0

## Correspondence, reports, and record management

Once appointed, the review panel shall ensure that all submissions, records, reports, and interactions with the PSAA, the area manager, relevant CASP principal social worker or other parties relating to the review are recorded by the review panel on TCMS.

The review panel will ensure that all correspondence, written records of interviews and reports issued by the review panel are created using the templates on TCMS and that a record of each document issued is retained on the TCMS case record, and that all correspondence is transmitted securely as prescribed in CASP Data Protection Guidance.

All correspondence, written records and reports should be drafted by one panel member using the templates on TCMS, and the other member of the review panel should perform a four eyed review to ensure that the draft document is correct and contains all the information required. They should also confirm that it complies with the requirements for the content and format of the relevant TCMS template.

# 27.0

## Conducting the review for error

### 27.1 | The role of the review panel

As part of its deliberations, the review panel will undertake the following actions:

#### **Review relevant information**

- Review all the relevant information and documentation gathered by the CASP social worker as part of the substantiation assessment.

#### **Interview the PSAA (if the PSAA so wishes) and receive written submissions**

- Write to the PSAA to invite them to attend an interview if they so wish within a period of 35 days from receipt of the letter. The PSAA may attend the interview alone or be accompanied by a support person or legal representative.
- Invite the PSAA to provide any written submission or document that they believe are relevant and necessary for the review. The PSSA should provide any written submissions or documentation to the review panel within 28 days of the date of receipt of the letter.
- Advise the PSAA that, at the interview or in their written submission, the PSAA may make any statement or legal submission

or provide any document which they believe is relevant and necessary for the review panel's examination of the professional decision-making which lead to the final conclusion of the substantiation assessment. The review panel's examination of the professional decision-making includes an examination of the following:

- if there was a sustainable basis for the final conclusion (meaning that it was not clearly in error)
- and
- if adequate fair procedures were afforded to the PSAA in the substantiation assessment.

#### **Provide relevant CASP principal social worker with opportunity to respond**

- Provide the relevant CASP principal social worker with a written note of any interview with the PSAA and or with any written submissions or documentation received from the PSAA. The relevant CASP principal social worker will then have 14 days to provide the review panel with any response to the issues raised by the PSAA.

#### **Advise the PSAA that the review panel will not consider new information**

- Advise the PSAA that they may not put forward new information or documentation, which was not provided to the CASP social worker. However, in exceptional circumstances, the PSAA may be allowed to provide new information and documentation to the review panel where this was not reasonably available to the PSAA during the substantiation assessment, and there is no fault on the part of the PSAA for not providing it at that time.
- If the PSAA puts forward information or documentation which is not relevant to the review or if the PSAA puts forward new information or documentation which was not provided to the original CASP social worker but was reasonably available to the PSAA at the time, the review panel will advise the PSAA that these materials will not be considered in the review and any such materials will be returned to the PSAA.

#### **Interview other parties in exceptional circumstances only**

- In the normal course, the review panel will not conduct interviews with people other than the PSAA. However, in exceptional circumstances, they may undertake interviews with social work personnel or other persons if they are of the view that this is necessary to allow them to examine the CASP social worker's decision-making. The review panel shall only conduct such an interview(s) where they cannot determine if there was a sustainable basis for the final conclusion (meaning that it was not clearly in error) without conducting such an interview.
- Any such interview will be limited to hearing evidence which the review panel needs to hear itself to reach an independent view on questions of contested fact.

- If the review panel determines that it is necessary to undertake an interview(s) with social work personnel or another party, it will notify the PSAA and the relevant CASP principal social worker of this.
- Following any such interview, the review panel will provide the PSAA and the relevant CASP principal social worker with a written record of the interview(s) or responses received, so that the PSAA and the relevant CASP principal social worker have an opportunity to respond. The PSAA and the relevant CASP principal social worker will be required to send any response to the review panel within 14 days.

#### **Consider how the substantiation assessment was carried out**

- The review panel will examine if adequate fair procedures were afforded to the PSAA in the substantiation assessment.
- As part of this, the review panel will examine if the social work team adhered to the Child Abuse Substantiation Procedure in conducting the assessment.
- The review panel will also consider if the required level of consideration was given to performing a reliability and accuracy check on the PMD's account, and if this was properly documented by the CASP social worker. The review panel will examine the professional decision-making of that consideration (if it took place) and if adequate fair procedures were afforded in carrying out that consideration.
- The review panel will also consider if there was a sustainable basis for the final conclusion (meaning that it was not clearly in error). When assessing if there was a material error of fact which led to a decision being made that was clearly in error, the review panel shall take into account that a mistake as to one or more facts will not necessarily lead to a final conclusion being set aside provided the final conclusion was supported by other correct facts.

The review panel shall not, in the normal course, examine questions of pure credibility because, other than in exceptional circumstances, it will not have the opportunity to assess oral evidence given by any witnesses or the PMD.

- The review panel will have regard to the full picture that emerged from all the relevant information and documentation gathered in the substantiation assessment and other information gathered during the review process. In particular, the review panel shall have regard to the process of analysis or evaluation by which the final conclusion in the substantiation assessment was reached.

#### **Provide a provisional review report**

- Once the review panel has conducted any interview(s) and received any written submissions from the PSAA and or other parties where required and has received any further responses from the PSAA and the relevant CASP principal social worker, it will have 30 days to complete the provisional review report. The report will set out the conclusion reached by the review panel in relation to the substantiation assessment.
- The review panel will reach one of the following conclusions in relation to the substantiation assessment:
  - To uphold the final conclusion of the social work substantiation assessment, or
  - To set aside the final conclusion of the substantiation assessment and to send the matter back to Tusla to undertake a new assessment if appropriate..
- The review panel will provide reasons for its conclusions which must show that the available evidence and information, taken as a whole, was rationally analysed and fairly weighed.

#### **Provide opportunity for PSAA and the relevant CASP principal social worker to respond to provisional review report**

- The PSAA and the relevant CASP principal social worker will have 14 days in which to make submissions to the review panel in relation to the provisional review report. These responses must be considered by the review panel before the final review report is issued.

#### **Issue final review report**

- The review panel shall complete its final report within 14 days of the receipt of any response or written submission from the PSAA and the relevant CASP principal social worker in relation to the provisional report. If no response or submissions are received by the deadline for submissions, the review panel shall proceed to complete its final report within 14 days.

#### **Agree extended timeframe**

- The review panel may extend the period for the taking of a particular step or steps in the conduct of a review. It may extend time where it concludes that it is necessary to do so to ensure that the review is carried out in a thorough and fair manner.

#### **Contact Tusla Office of Legal Services if the review panel encounters difficulties**

- If the review panel experiences difficulties in relation to receiving documentation from a Tusla area, the availability of social work personnel for interview (if required in exceptional circumstances), or any other relevant matter, it shall advise Tusla's Office of Legal Services. This office will raise the matter with the the relevant CASP principal social worker or more senior staff as required.

**Seek legal advice**

- The review panel may obtain its own independent legal advice and representation in relation to a review where it considers it appropriate to do so. Tusla's Office of Legal Services will provide details of the independent legal representative to the review panel.

**27.3 | Contact with the PSAA**

The review panel should ensure that fair procedures are afforded to the PSAA when conducting the review. After receiving the relevant information and documentation from the relevant CASP principal social worker, the review panel should write to the PSAA (and their parents, if the PSAA is a child) and provide the PSAA with the relevant CASP Data Protection Notice.

The letter to the PSAA should enclose the booklet of relevant information and documentation which the review panel has been provided with by the relevant CASP principal social worker.

**The letter sent to the PSAA** (and their parents, if the PSAA is a child) at the outset of the review process should provide an opportunity for the PSAA to:

- seek legal advice.
- meet with the review panel, either alone or accompanied by a support person or legal representative, within a period of 35 days from the date of receipt of the letter.
- make any written submissions or submit any documentation which they believe are relevant and necessary to the review within 28 days of the date of receipt of the letter.

In the letter to the PSAA, the review panel will advise that the PSAA may not put forward new information and documentation which was not provided to the CASP social worker. However, in exceptional circumstances, the PSAA may be allowed to provide new information and documentation to the review panel where this was not reasonably available to the PSAA during the substantiation assessment,

and there is no fault on the part of the PSAA for not providing it at that time.

Following its meeting with the PSAA, the review panel shall provide a copy of the interview record to the PSAA, allowing the PSAA 10 days to notify them of any clarifications or inaccuracies.

The record of any meeting with the PSAA, and any written submissions or documentation received from the PSAA, which are relevant to the review, must be provided to the relevant CASP principal social worker. The relevant CASP principal social worker will then have 14 days to provide the review panel with any response to the issues raised by the PSAA.

In exceptional circumstances, if the review panel meets with or receives submissions from a third party, the record of any meeting and any written submissions or documentation received, which are relevant to the review, must be provided to the PSAA and the relevant CASP principal social worker. The PSAA and the relevant CASP principal social worker will then have 14 days to provide the review panel with any response to the issues raised by the PSAA.

**27.4 | If the PSAA does not engage with the review**

If the PSAA does not engage, the review process will conclude if:

- the review panel has made two attempts to meet with the PSAA and to receive a written submission but the PSAA has not availed of this, and
- the PSAA has not provided a reasonable explanation as to why they might require an extension of time for this.

This means the review process will not move to the report stage. If this happens, the review panel will write to the PSAA explaining that the PSAA's request for a review cannot be met due to their lack of participation in the process. In such circumstances, the final conclusion of the substantiation assessment will stand, and Tusla may notify the relevant third parties where necessary.

# 28.0

## The review report

**28.1 | The role of the review panel**

Once the review panel has conducted any interview(s) and or received any written submissions from the PSAA and other parties (where relevant) and has received any further responses from the PSAA and the relevant CASP principal social worker, it will have 30 days to complete a provisional review report. The format of the review report will follow a prescribed structure.

**Provisional review report prepared**

A provisional review report will be provided to the PSAA (and their parents, if the PSAA is a child) and the relevant CASP principal social worker on the condition that it is confidential and cannot be copied, distributed, or used for any other purpose, without the prior written consent of Tusla.

**The PSAA and the relevant CASP principal social worker will have 14 days to respond**

Following receipt of the provisional report, the PSAA and the relevant CASP principal social worker will have 14 days within which to provide any response regarding the provisional report.

**The review panel to complete final review report**

The review panel shall complete its final report within 14 days of the receipt of any written statement or written submission from the PSAA and the relevant CASP principal social worker in relation to the provisional report. If no response or submissions are received by the deadline for submissions, the review panel shall proceed to complete its final report. One member of the review panel should prepare the final report and the other member of the review panel should conduct a four-eye review to ensure accuracy and to ensure the report considers and addresses any responses from the PSAA or the relevant CASP principal social worker regarding the provisional report.

The review panel's provisional and final reports will detail:

**Relevant information and documentation**

- A summary of all relevant information and documentation gathered by the CASP social worker in the substantiation assessment process and submissions or other information considered by the review panel.
- A summary of the review panel's interview with the PSAA and any other party, and any response received, if this occurred.
- A summary of any written submissions received from the PSAA and any other party and any response received, if this occurred.

**Conclusions reached by review panel**

- The review panel will determine whether there was a sustainable basis for the final conclusion (meaning that it was not clearly in error), and if adequate fair procedures were afforded to the PSAA in the substantiation assessment.
- In its report, the review panel will reach a conclusion having considered all the relevant submissions and relevant information and documentation that has been brought to their attention during the review. The conclusions shall be made by reference to the full picture that emerged from the available evidence and information taken as a whole.
- They shall reach one of the following conclusions in relation to the substantiation assessment:
  - a. To uphold the final conclusion of the substantiation assessment, or

b. To set aside the final conclusion of the substantiation assessment and to send the matter back to Tusla for a new assessment to be undertaken if appropriate.

- The reasons for their conclusions must show that the available evidence and information, taken as a whole, was rationally analysed, and fairly weighed.
- A decision to set aside the final conclusion of the substantiation assessment and recommend sending the matter back to Tusla for a new assessment (see b above)

If the review panel decides on b. above - this means it sets aside the final conclusion and sends the matter back to Tusla to consider undertaking a new assessment.

#### **Upon sending the matter back to Tusla**

Where the final conclusion is set aside and the matter is being sent back to Tusla, the review panel shall consider, if it is appropriate in the interests of fair procedures or good professional decision-making that the new team receives:

- **Full copy of report**

a full copy of the review report and all relevant information gathered in the original assessment, or

- **Abridged or summary report**

only an abridged version or summary of same, which removes any information that resulted from a breach of fair procedures and or a failure in decision-making; and or

- **Only certain documents**

Only certain documents which were not gathered or generated because of any error or breach of fair procedures, or which do not contain information that resulted from a breach of fair procedures and or a failure in decision-making (or that any such documents ought to be redacted).

The review panel shall state the reasons for this decision.

If the review panel decides on option b. above the area manager will consider arranging a new assessment to be undertaken by a separate CASP social worker.

The area manager may decide not to arrange for a new assessment in circumstances where the scope of CASP is no longer met, having regard to the factors set out in Section 3.0 of the CASP.

Additionally, in exceptional circumstances the area manager will consider not arranging for a new assessment if the area manager considers that it would be disproportionate and unreasonable to undertake a new assessment taking into consideration the individual circumstances of the case. Before reaching a determination on this matter, the area manager will consult with a CASP principal social worker in another area and the Office of Legal Services.

Any decision not to undertake a new assessment will be recorded on the case file.

# 29.0

## Oversight of cases and the Review panel's decision

### **29.1 | Oversight of cases**

The chairperson of the review panel shall provide Tusla's Office of Legal Services with a monthly update on the status of each case under review.

### **29.2 | The review panel decision**

The decision by the review panel to uphold or set aside a CASP substantiation assessment is final.

If a new substantiation assessment is undertaken by Tusla following the final conclusion being set aside by the review panel, a new CASP social worker and line manager with no previous knowledge of the case will be assigned to undertake that process. The new CASP social worker must write to the PMD and PSAA to tell them about this. This should be done before there is any communication with potential witnesses.

# Part D

## Communicating the CASP

# 30.0

## 30.0 | Communication of CASP to relevant people

This document will be accessible to:

- all relevant Tusla staff and managers,
- An Garda Síochána
- key external agency staff, including funded and non-funded organisations involved in assisting Tusla in the substantiation assessment of child abuse and neglect.

This document will also be accessible to legal advisors and stakeholders working in counselling and therapy with adult victims of child abuse.

People who wish to get access to this document can ask a Tusla area office for it.

The CASP social worker should provide the PSAA with access to this document in line with the procedure.

### Communication of CASP to relevant people

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# 31.0

## Review of CASP

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Tusla will review this procedure and related documents one year after implementation. After this, the document will normally be reviewed every two years, or as required. 'As required' reviews may occur where case experience, new learning and emerging legislation may indicate that areas of the policy and procedure need to be revised.



