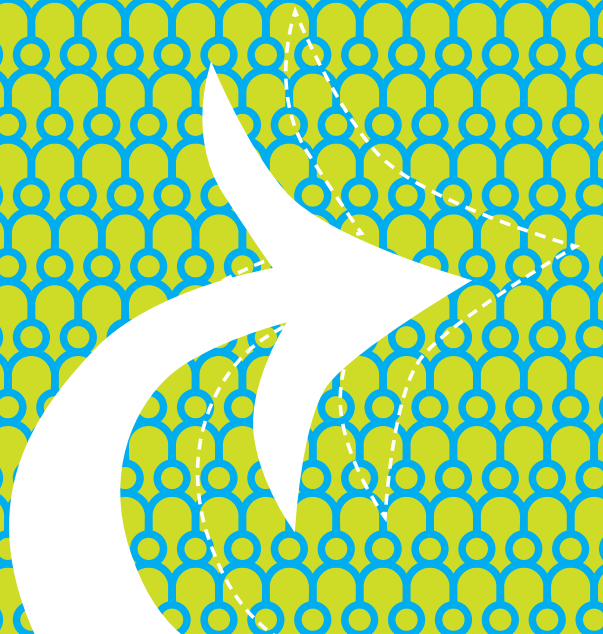


Staff procedure for reporting child protection and welfare concerns

Children
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TÚSLA

An Ghníomhaireacht um
Leanaí agus an Teaghlach
Child and Family Agency



Tusla Staff Procedure for Reporting Child Protection and Welfare Concerns

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1 Introduction

Tusla has statutory responsibility for keeping children safe and protected from harm, as set out in various pieces of legislation (e.g. Child Care Act 1991, Child & Family Agency Act 2013 and Children First Act 2015 and its associated Guidance). We work together with parents and professionals to try to achieve this.

All staff should be alert to the possibility that children, with whom they are in contact, may be subject to abuse and/or at risk of being abused.

Under Part 2 of the Children First Act, Tusla is obliged to have a Child Safeguarding Statement which is underpinned by Tusla's risk assessment. One of the areas of risk relates to children being left in situations of harm, or potential harm. One of the ways Tusla mitigates these risks is by having clear policies and procedures for its' staff. This procedure details how staff should report child protection and welfare concerns and who should make these reports.

It is important to also note that for Tusla staff who have an obligation to be registered with a professional and/or regulatory body, such staff are also accountable to Tusla for their practice in line with professional standards, codes of ethics and Tusla's policies and procedures. This means being answerable for decisions he/she makes and being prepared to make explicit the rationale for those decisions and justify them in the context of legislation, case law, professional and ethical conduct.

2 Purpose

This procedure provides direction for Board members, Tusla staff, agency staff, work placements, student placements, and volunteers on what to do if you are worried about a child, your roles and responsibilities, and how to report your concerns. All references in this policy to 'staff' should be interpreted as meaning all staff, whether they are in a paid or unpaid capacity.

3 Principles in Child Protection and Welfare

There are a number of key principles of child protection and welfare identified in Children First: National Guidance, that inform both Government policy and best practice for those dealing with children. These are (DCYA 2017: 02-03):

- The safety and welfare of children is everyone's responsibility
- The best interests of the child should be paramount
- The overall aim in all dealings with children and their families is to intervene

- proportionately to support families to keep children safe from harm
- Interventions by the State should build on existing strengths and protective factors in the family
- Early intervention is key to getting better outcomes. Where it is necessary for the State to intervene to keep children safe, the minimum intervention necessary should be used. Children should only be separated from parents/guardians when alternative means of protecting them have been exhausted
- Children have a right to be heard, listened to and taken seriously. Taking account of their age and understanding, they should be consulted and involved in all matters and decisions that may affect their lives. Parents/guardians have a right to respect, and should be consulted and involved in matters that concern their family
- Parents/guardians have a right to respect, and should be consulted and involved in matters that concern their family
- A proper balance must be struck between protecting children and respecting the rights and needs of parents/guardians and families. Where there is conflict, the child's welfare must come first
- Child protection and welfare is a multi-agency, multidisciplinary activity. Agencies and professionals must work together in the interests of children

The purpose of this procedure is to provide support to Tusla staff in reporting child protection or welfare concerns.

4 Scope

This procedure provides direction for the Tusla Board, all Tusla staff (including those engaged in the provision of service in third-party organisations), agency contracted staff, work placements, student placements and volunteers.

5 Roles and Responsibilities

5.1 All staff

All Tusla staff, irrespective of the position held within the Agency, have a responsibility to report suspected or disclosed child protection and welfare concerns. All staff should know how to recognise and respond to the possibility of abuse or neglect, so as to ensure that the most effective steps are taken to protect a child and to contribute to the on-going safety of children. There are a number of legal protections for reporters which are outlined in chapter 2 of Children First: National Guidance.

There may be exceptional circumstances when it may be acceptable and necessary to deviate from this procedure but discussions with line management and professional judgement must be clearly documented and be available for review and audit, if required.

5.2 Mandated Persons

Under the Children First Act 2015, Mandated Persons¹ have two main legal obligations:

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

A mandated person, like all reporters, who makes a report to an authorised person (see 5.4, below) is protected from civil liability under the Protections for Persons Reporting Child Abuse Act 1998. Tusla also must have a specified procedure in place for the maintaining of a list of mandated persons in the Agency as directed in the Children First Act 2015.

5.3 Line managers

Your line manager is responsible for ensuring that this reporting procedure is followed without delay, so that child welfare and protection concerns are reported promptly to the local Tusla social work department through the online Tusla Portal. In an emergency, reports can be made through the DCP for the Area where the child resides, with follow up report through the online Tusla Portal.

Your Line Manager will be the resource person for any staff member or volunteer who has child protection and welfare concerns. They should be knowledgeable about child protection and welfare and should avail of any training considered necessary to fulfil this role.

Line managers must give consideration to all working arrangements for staff that they manage to ensure there is clarity regarding the appropriate reporting procedure to be followed.

5.4 Authorised Persons

The Children First Act 2015 requires the CEO of Tusla to appoint authorised persons to receive mandated reports of child harm. The CEO has designated Service Directors, Area Managers,

¹ Please see Children First: National Guidance (2017): Chapter 3, for further information on the roles of mandated persons and Appendix 2: Schedule of Mandated Persons under the Children First Act 2015.

Principal Social Workers, Social Work Team Leaders, Senior Social Workers, Senior Social Work Practitioners and Social Workers as authorised persons. Under section 15(2) of the Children First Act 2015, all authorised persons are also “deemed to be duly appointed [as] designated officer[s] within the meaning of the Protections for Persons Reporting Child Abuse Act 1998”.

5.5 Tusla Social Work Departments

Tusla responds to child protection and welfare concerns through social work departments. Once a report is received, the Tusla social worker department screen reports and will forward relevant cases for assessment and intervention. Reports are also prioritised and protective interventions to children and their families are provided where necessary. Each social work department deals with the concerns that arise in its specific geographical area by reference to the home address of the child. You can find contact details for each department on the Tusla website (<https://www.tusla.ie/services/child-protection-welfare/contact-a-social-worker/>). Tusla social work departments can be contacted through the Tusla Dedicated Contact Points (DCP) and are available to consult with when you are concerned about a child and unsure whether you should make a report.

5.6 Designated Officers under the Protection for Persons Reporting Child Abuse Act 1998

Certain Tusla grades/functions are designated officers with explicit responsibilities in responding to child protection and welfare concerns under the Protection for Persons Reporting Child Abuse Act 1998 (if you have questions about whether you are a Designated Officer under this Act, please discuss with your line manager). If you receive a report from an external person, it is your responsibility to pass this on to local Tusla social work department through Tusla online portal.

6 Legislation and Other Related Policies

- A Guide for the Reporting of Child protection and Welfare Concerns (Tusla 2018)
- All Tusla Specified Procedures under the Children First Act 2015
- Child and Family Agency Act 2013
- Child Care Act 1991
- Child Protection and Welfare Practice Handbook (HSE 2011)
- Child Protection and Welfare Practice Handbook 2 (Tusla 2018)
- Child Safeguarding, A Guide to Policy, Procedure and Practice (2nd Edition, tusla 2019)
- Children First Act 2015

- Children First National Guidance for the Protection and Welfare of Children(DCYA 2017).
- Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012
- Data Protection Acts 1988 and 2003
- Freedom of Information Act 2014
- General Data Protection Regulation (GDPR) 2018
- Protected disclosures Act 2014
- Protection for Persons reporting Child Abuse Act 1998
- Tusla Child Protection and Welfare Allegations against Tusla Staff Policy and Procedure (Tusla 2019)

7 Procedure

Section 3 of the Child Care Act 1991 places a statutory responsibility on Tusla to promote the welfare of children who are not receiving adequate care and protection. Tusla has a statutory duty to respond to reports of children who are not receivingadequate care and protection.

7.1 What to Report

Child abuse can be categorised into four different types: neglect, emotional abuse, physical abuse and sexual abuse. A child may be subjected to one or more forms of abuse at any given time. Abuse and neglect can occur within the family, in the community or in an institutional setting. The person allegedly causing harm to the child may be someone known to the child or could be a stranger. They can be an adult or another child².

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

All Tusla staff (including mandated persons) should always report to the relevant Tusla social work department through Tusla online Portal when they have **reasonable grounds for concern** that a child may have been, is being, or is at risk of being abused or neglected. It is not necessary for you to prove that abuse hasoccurred to report a concern — all that is required is that you have reasonable

² In a situation where abuse is alleged to have been carried out by another child, you should consider it as child welfare and protection issue for both children and you should follow this reporting procedure for both the victim and the child allegedly displaying harmful behaviour.

grounds for concern.

The Children First: National Guidance (p.6) states, “Reasonable grounds for a child protection or welfare concern include:

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

Additionally, mandated persons have statutory obligation to report concerns which meet or exceed the threshold of ‘harm’ as defined in the Children First Act 2015.

The threshold for harm³ for making a mandated report is met when:

1. A mandated person knows, believes or has reasonable grounds to suspect that a child has been harmed, is being harmed or is at risk of being harmed. Or
2. A child believes that s/he has been harmed, is being harmed or is at risk of being harmed and discloses that belief to the mandated person.

‘Harm’ is defined in the Children First Act 2015 as:

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

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

7.1 Concerns about an adult who may pose a risk to children:

While in most cases concerns for the welfare or safety of a child develop from your own observation or knowledge of the child or their family, sometimes concerns arise about whether an adult may pose a risk to children, even if there is no specific child named in relation to the concern. For

³ See Children First: National Guidance, Chapter 3, for further information on thresholds

example, based on known or suspected past behaviour, a concern could exist about the risk an individual may pose to children with whom they may have contact. You should report any reasonable concerns to the Tusla social work department through the online portal.

7.2 Retrospective Abuse:

Some adults may disclose abuse that took place during their childhood. These cases are known as retrospective cases and you should report this information to the local Tusla social work department through the Tusla Retrospective Abuse Report online portal. as the person subject to the abuse allegation may pose a current risk to children.

7.3 Reporting

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

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

Seeking advice and guidance: If you are concerned about the safety or welfare of a child you should discuss the concern with your line manager. If you and/or your line manager require further assistance, as to whether a report should be made, you can consult with the local Tusla social work department where the child resides through the relevant dedicated contact point. For mandated persons, if you are in doubt about whether your concern reaches the legal threshold of harm for making a mandated report, the local Tusla social work department contactable through the DCP can provide advice in this regard. The decision to report is the responsibility of the mandated person or individual staff member.

How to report a concern: It is Tusla policy that where reasonable grounds for concern exist for a child, all Tusla staff, including mandated persons in consultation with their line manager, should report these concerns using the online portal on www.tusla.ie/children-first/web/portal. Where for any reason it is not possible to use the Tusla online portal, reports should be made, without delay, to the relevant DCP.

In cases of retrospective abuse, you should complete a Retrospective Abuse Report Form (RARF) using the online portal on www.tusla.ie/children-first/web/portal.

If for any reason you are making a report independent of your line manager, you should inform your

line manager that a report has been made.

For mandated persons, if your concern meets or exceeds the threshold for harm as defined in the Children First Act 2015 you must report using the Tusla Portal and you should clearly identify that the report is a mandated report made under the Children First Act 2015. It is Tusla policy that mandated reports should be made known to your line manager, and may be made jointly where appropriate.

It is important to note that the statutory obligation of mandated persons to report under the Children First Act 2015 must be discharged by the mandated person and cannot be discharged by a line manager on their behalf; a joint report as outlined above will meet the mandated person's responsibilities under the Act.

To assist you in deciding if a report should be made, please also see guidance and the four steps in the Tusla Guide for the Reporting of Child Protection and Welfare Concerns (available from www.tusla.ie).

7.4 Reporting Suspected Crimes to An Garda Síochána

Consideration must also be given to responsibilities to report suspected crimes under the Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012, which are in addition to any reporting requirements under the Children First Act 2015 or Children First: National Guidance for the Protection and Welfare of Children.

7.5 Deciding Not to Report

If, following consultation with your line manager, there is decision that a report to the Tusla social work department is not warranted as there are not reasonable grounds for concern, you should record:

- The reasons for not reporting;
- Any actions taken;

The staff member should be advised that if they remain concerned about the situation, they are free to make to report themselves to the local Tusla social work duty service where the child resides or An Garda Síochána. The provisions of the Protection for Persons Reporting Child Abuse Act 1998 will apply.

Remember, concerns which do not initially meet reasonable grounds for concern may, upon review show patterns or clusters which may heighten the level of concern.

7.6 Immediate Risk to a child

In an emergency situation, where you believe the child is at risk of immediate harm, you should contact the local Tusla social work department through the DCP where the child resides without delay, before submitting a written report via the Tusla Online Portal.

Under no circumstances should a child be left in a situation that exposes him or her to harm or risk of harm, while waiting for Tusla social work intervention. If you think the child is in immediate danger and you cannot contact the local Tusla social work department /DCP where the child resides, you should contact An Garda Síochána.

In such an emergency situation, if you are a mandated person, you must follow up with a mandated report to the local Tusla social work department through the DCP where the child resides **within three days** – this can be done through the Tusla online portal.

As a mandated person you may also contact the out-of-hours Tusla social work service, on 0818 776 315, between 6pm and 6am every night, and between 9am and 5pm on Saturdays, Sundays and bank holidays. The Tusla out-of-hours service can provide advice to, and receive reports from, mandated persons.

7.7 Responding to allegations of abuse made against Tusla staff

An allegation of abuse may relate to a person who works with children who has:

- Behaved in a way that has or may have harmed a child/young person;
- Possibly committed a criminal offence in relation to a child/young person;
- Behaved towards a child/young person or children/young people in a way that indicates they may pose a risk of harm to a child/young person;
- Behaved in a way that is contrary to the organisation's code of behaviour for Tusla Staff;
- Behaved in a way that is contrary to professional practice guidelines.

Allegations of abuse made against Tusla staff must be reported following the steps laid out in this procedure. They are also handled using Tusla's *Child Protection and Welfare Allegations against Tusla Staff Policy and Procedure*. Breaches of Tusla's code of behaviour may be best dealt with under Tusla's disciplinary procedures. Poor practice issues may also be best dealt with under Tusla's disciplinary procedures and may need to be referred to the relevant professional regulatory body.

7.8 Recording and Confidentiality⁴

Record-keeping is of critical importance. Unless accurate records are maintained, the ability to adequately protect vulnerable children may be severely curtailed. It is essential that all Tusla staff keep contemporaneous records of all child protection and welfare concerns. These should include details of all contacts, consultations and any actions taken.

- Notes should be succinct, focused and proportionate.
- Best practice requires records to be up to date, written clearly, with explicit details of any decisions taken, while explaining the reason for these decisions.
- Records should be factual, accurate and legible. They should also be dated and signed.
- Store records on child protection and welfare concerns, allegations and disclosures securely and safely, in accordance with Data Protection legislation and Tusla procedures and guidance.
- Where possible, notes should be recorded contemporaneously or on the day that the action took place.
- Records should be accessible by a line manager at all times during a worker's absence from the office. Consideration would also need to be given to all working relationships of staff and where their records are stored for access by the line manager, if needed. This may be particularly important where the Tusla employee is based in another Tusla building or based in an external service.
- Share records on a need-to-know basis only in the best interests of the child or young person in compliance with relevant Data Protection legislation and Tusla procedures and guidance.

Please note that confidentiality should never be cited as a reason not to report child abuse.

7.9 Responding to a child/young person who discloses abuse

A child or young person may disclose to a Tusla Staff member that they have been or are being harmed or abused. Children/young people will often have different ways of communicating that they are being abused. If a child or young person hints at or tells a Tusla staff member that he or she is being harmed by someone, be it a parent/carer, another adult or by another child/young person (peer abuse), it should be treated in a sensitive way.

⁴ Staff must also familiarise themselves with all [Tusla data protection policies and guidance](#).

A child or young person may choose to make a report to the Tusla social work department themselves⁵. Tusla staff should support the child or young person to do so, if appropriate. Tusla staff should also make a report through the Tusla online portal, in line with this procedure.

Remember, a child/young person may disclose abuse to you as a trusted adult at any time during your work with them. It is important that you are aware and prepared for this.

- Be as calm and natural as possible.
- Remember that you have been approached because you are trusted and possibly liked. Do not panic.
- Be aware that disclosures can be very difficult for the child/young person.
- Remember, the child or young person may initially be testing your reactions and may only fully open up over a period of time.
- Listen to what the child/young person has to say. Give them the time and opportunity to tell as much as they are able and wish to.
- Do not pressurise the child/young person. Allow him or her to disclose at their own pace and in their own language.
- Conceal any signs of disgust, anger or disbelief.
- Accept what the child or young person has to say – false disclosures are very rare.
- It is important to differentiate between the person who carried out the abuse and the act of abuse itself. The child/young person quite possibly may love or strongly like the alleged abuser while also disliking what was done to them. It is important therefore to avoid expressing any judgement on, or anger towards the alleged perpetrator while talking with the child/young person. It may be necessary to reassure the child/young person that your feelings towards him or her have not been affected in a negative way as a result of what they have disclosed.
- Reassure the child/young person that they have taken the right action in talking to you.

Section 14(2) of the Children First act 2015 also places obligations on mandated persons to report any disclosures made by a child where a child believes that he or she has been harmed, is being harmed, or is at risk of being harmed, and discloses that belief to a mandated person in the course of the mandated person's employment or profession. (Please also see 7.1, above)

⁵ See [Changing Futures](#) website for information and resources for young people wishing to make a report to Tusla.

7.10 Talking to Parents/Guardians

It is considered good practice to tell the family that you are making a report. This should be done by the most appropriate person who may be the worker and/or their line manager. This means that the family is fully informed about the concerns that Tusla staff hold and also helps inform them of services they are being referred to. It also helps them to understand what information professionals are passing on and why. Further information and guidance on talking to parents can be found in Tusla Child Safeguarding: A Guide for Policy, Procedure and Practice.

It is not necessary to inform the parents/guardians that a report is being made if by doing so

- The child will be placed at further risk;
- Where the family's knowledge of the report could impair Tusla's ability to carry out a risk assessment; or
- If you reasonably believe that by doing so it may place you at risk of harm from the family.

If parents/guardians are not informed, you should record this fact and the reason for your decision. This information should be included in your report.

7.11 Whistleblowing – A Responsibility to Speak Out

The Protected Disclosures Act 2014 provides a statutory framework within which workers can raise concerns regarding potential wrongdoing that has come to their attention in the workplace in the knowledge that they can avail of significant employment and other protections if they are penalised by their employer or suffer any detriment for doing so.

All Tusla staff should be made aware of the Tusla Protected Disclosures Policy and Procedure: A guide for whistleblowing on alleged wrongdoing, available from https://www.tusla.ie/uploads/content/Tusla_Protective_Disclosure_Policy.pdf

8 Training

The following programmes are available to Tusla staff on ilearn@Tusla which is accessed through <http://www.hseland.ie>:

- Introduction to Children First – Mandatory for all Tusla staff
- Implementing Children First in Tusla – Mandatory for all Tusla Staff
- Children First in Action – Tusla's response to a Child protection and Welfare concern –

Mandatory for all frontline staff.

The Workforce Learning and Development Directory of Training for Tusla staff is available to download under the HR button on the Tusla hub. Further Children First information is included on the Tusla Website.

9 Review and Audit

This procedure is to be reviewed 24 months after adoption and every 24 months thereafter. It should be reviewed earlier if there is a material change to legislation and policy or if there is an incident relating to matters covered in this policy.

All Managers must ensure that all staff comply with this procedure and should consider auditing files to achieve compliance with this procedure.

10 Enforcement

Members of staff who do not comply with Tusla's procedures may be subject to disciplinary action as per Tusla's disciplinary procedures. Tusla also retains the right to report any breaches of legal reporting obligations to appropriate authorities.

11 References

- [Changing Futures](#), website
- ChildSafeguarding: A Guide for Policy, Procedure and Practice (2nd ed) (Tusla 2019)
- Child and Family Agency Act 2013
- Child Care Act 1991
- Child Protection and Welfare Allegations against Tusla Staff Policy and Procedure (Tusla 2019)
- Child Protection and Welfare Allegations against Tusla Staff Policy and Procedure (Tusla 2019)
- Child Safeguarding Statement: Code of Behaviour Guidance for Working with Children and Young People (Tusla 2022)
- Children First Act (2015)
- Children First: National Guidance for the Protection and Welfare of Children (2017)
- Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012
- General Data Protection Regulation (GDPR) (2018)

- Procedure for Developing Policies, Procedures, Protocols and Guidelines (Tusla,2016)
- Protected Disclosures Policy and Procedure: A guide for whistleblowing on alleged wrongdoing (Tusla), available from https://www.tusla.ie/uploads/content/Tusla_Protective_Disclosure_Policy.pdf
- Protection of Persons Reporting Child Abuse Act 1998
- Tusla A Guide for the Reporting of Child Protection and Welfare Concerns (Tusla2017)
- Tusla Child Safeguarding: A Guide for Policy, Procedure and Practice 2nd Edition (Tusla2019)
- Tusla Code of Behaviour for Staff and Volunteer
- Tusla data protection policies and guidance, available on the [Tusla hub](#).
- Tusla Disciplinary Procedures
- www.tusla.ie

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