

macnas

**Child Protection Policy and Procedures**

## Macnas Child Protection Policy and Procedures

Macnas are committed to ensuring that a child centred approach is central to all our work with children\*. Further Macnas aims to provide a safe and secure environment placing the welfare of children availing of our services at the centre of our work. Macnas will follow closely the recommendations of *Children First: National Guidelines for the Protection and Welfare of Children*. Macnas has therefore put in place the following procedures:

- Code of behaviour for all staff;
- Reporting suspected or disclosed cases of abuse;
- Confidentiality;
- Recruiting and selecting of staff;
- Managing and supervising staff;
- Involvement of primary carers;
- Allegations of misconduct or abuse by staff;
- Complaints and comments;
- Incidents and accidents.

This policy will be reviewed on **01<sup>st</sup> Dec 2020**



Signed:  
(Designated Person)

Date 21/01/19

\* Children are defined in the 1991 Child Care Act as “a person under the age of 18 years other than a person who is or has been married” (S.2.1).

## **Code of Behaviour for Staff**

Macnas is involved in working with a wide variety of children in an equally wide variety of settings it is therefore imperative that all staff adhere to the following code of behaviour.

### **Child Centred Approach**

- Treat all children and young people equally.
  - Listen to and respect children and young people.
  - Create an atmosphere of trust.
  - Involve children and young people in decision-making as appropriate.
  - Provide encouragement, support and praise (based on effort rather than achievement).
  - Use appropriate language (physical and verbal).
  - Offer constructive criticism when needed.
  - Treat all children and young people as individuals.
  - Respect differences of ability, culture, belief, ethnicity and sexual orientation.
  - Respect a child's or young person's personal space.
  - Discuss boundaries on behaviour and related sanctions, as appropriate, with children, young people and their primary carers.
  - Encourage feedback from groups and individuals.
  - Use age-appropriate teaching aids and materials.
  - Be aware of a child's or young person's other commitments when scheduling activities.
- Be cognisant of a child's or young person's limitation

### **Code of Practice**

- Register each child (the register to include name, address, phone, emergency contact, special requirements, attendance);
- Make primary carers, children, facilitators and visitors aware of the Child Protection Policy and Procedures;
- All staff to be aware of emergency procedures for fire and other accidents;
- Be inclusive of children with special needs;
- Workshops are planned and facilitators prepared;
- All concerns to be reported to the Designated Person and reporting procedures to be followed
- Accidents and any other incident to be reported and recorded;
- Facilitators and staff to be appropriately dressed;
- Work practices are to be regularly evaluated;
- Staff and volunteers will be appropriately trained;
- Children are to be adequately supervised with regard to type of work, ratio of children to facilitator and gender balance;
- If taking a session on your own do so only with the consent of the primary carers and conduct the session in as open an environment as possible;

- When working with any external organisation there is to be a written agreement between Macnas and that organisation;
- Bullying is not to be tolerated and the appropriate anti bullying policy is to be followed;
- If giving children a lift anywhere inform primary carers and try to ensure that another staff member accompany you;
- Be sensitive and aware around using language so as to avoid causing offence and/or upset;

### **Physical contact**

- Seek consent of child/young person in relation to physical contact (except in an emergency or a dangerous situation)
- Avoid horseplay or inappropriate touch
- Check with children/young people about their level of comfort when doing touch exercises
- Health and safety
- Don't leave children unattended or unsupervised
- Manage any dangerous materials
- Provide a safe environment
- Be aware of accident procedure and follow accordingly

### **Inappropriate Behaviours**

- Avoid spending excessive amounts of time alone with children/young people;
- Don't use or allow offensive or sexually suggestive physical and/or verbal language.
- Don't single out a particular child/young person for unfair favouritism, criticism, ridicule, or unwelcome focus or attention
- Don't allow/engage in inappropriate touching of any form;
- Don't hit or physically chastise children/young people;
- Don't socialise inappropriately with children/young people, e.g., outside of structured organisational activities.

### • **Health and Safety**

- All staff must to be familiar with the health and safety procedures of Macnas. (These are contained in the staff handbook located in Fisheries Field);
- Children are not to use or come in contact with dangerous materials while attending workshops, rehearsals or during performances. (Any such materials are to be used only by Macnas staff or other appropriately trained operatives).
- All accidents are to be reported and recorded in the accident book;
- All staff and facilitators are to work to ensure that the environment in which children are working is as safe as possible;
- All Macnas offices and workshops are to be regularly inspected to ensure that any potential hazard is dealt with

## **Recording Procedures**

There is an incident book in which concerns about the welfare of children are to be reported. This is located in the office in the Fisheries Field workshop. In order to ensure confidentiality access to this book is restricted to the Designated Person and their Deputy. Any concerns are to be reported to either of those people who will ensure that the person making the report logs the incident in the book.

The following information is to be included in and should be recorded;

- Suspicions,
- Concerns,
- Worrying observations,
- Behavioural changes,
- Actions and Outcomes,

When dealing with a disclosure (that is if a child tells of an incident) it is important to support the child through listening and respecting what it is you are being told. In order to facilitate the child through this process it is important that you try to observe the following,

- Stay calm and listen to the child, allow them the time to tell their story,
- Do not use leading questions or prompts,
- Reassure the child but do not promise to keep anything secret,
- Do not make the child repeat the details unnecessarily,
- Explain to the child what will happen next (keep this explanation at a level that the child can understand).

## **Reporting Procedures**

Once a disclosure has been made the person to whom it has been made is to contact the designated Person or their Deputy. They are then to log the disclosure in the Incident Book. When logging the incident it is important that as far as possible the incident is recorded using the language that the child used. Recordings should be purely factual without embellishments or comments.

The following information should form the kernel of any recording;

- Date,
- Time,
- People involved in the concern or disclosure,
- The facts,

- Any opinions to be supported by facts,

Once a recording has been made the Designated Person or their Deputy will:

- Discuss the concern with the primary carers unless this course of action is likely to place the child at further risk.
- Contact and discuss the concern with Health Service executive Duty Social Worker to discuss the incident.
- Make a written report to the Tusla using the standard reporting form if this is deemed the most appropriate course of action after discussing concerns with the Health Service executive Duty Social Worker.
- Keep the person who expressed the initial concern or to whom the disclosure was made involved and informed as to what is happening.
- Ensure that any information share is on a strictly need to know basis.

In the event of being unable to contact the Designated Person or their Deputy the person making the report can contact Tusla or Gardai 538000.

In any situation where there is a perceived threat to the child do not hesitate to contact the Gardai 091-538000.

### **Dealing with a retrospective allegation**

Some adults may disclose abuse that took place during their childhood. If you have a reasonable concern about past abuse, where information came to your attention before the Act and there is a possible continuing risk to children, it should be reported to Tusla.

### **Designated Person and Mandated Person for Macnas**

Noeline Kavanagh, Artistic and has been designated as the person to contact if you have an issue or concern about any aspect of a child's or young person's safety and welfare. It is the responsibility of this person to support and advise staff about policy and procedures in relation to child protection and to ensure that procedures are followed. It is also the responsibility of the Designated Person to liaise with Tusla or Gardai where appropriate.

Noeline Kavanagh can be contacted in Fisheries Field on 091-568896/561462.

Noeline is also the Mandated Person. Mandated persons have two main legal obligations under the Children First Act 2015. These are:

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.

Victoria Mc Cormack – Volunteer Coordinator (091 568896) has been designated as the deputy. Macnas has an incident book that is kept in the office located at fisheries Field, Salmon Weir Bridge, Galway, Galway (091 568896).

Section 14(1) of the Children First Act 2015 states: ‘...where a mandated person knows, believes or has reasonable grounds to suspect, on the basis of information that he or she has received, acquired or becomes aware of in the course of his or her employment or profession as such a mandated person, that a child– (a) has been harmed, (b) is being harmed, or (c) is at risk of being harmed, he or she shall, as soon as practicable, report that knowledge, belief or suspicion, as the case may be, to the Agency.’ 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– (a) has been harmed, (b) is being harmed, or (c) is at risk of being harmed, and discloses this belief to a mandated person in the course of a mandated person’s employment or profession as such a person, the mandated person shall, ... as soon as practicable, report that disclosure to the Agency.’ Section 2 of the Children First Act 2015 defines harm as follows: ‘harm means in relation to a child– (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.’

### **Criteria for reporting: definitions and thresholds**

The mandated person is required, under the legislation to report any knowledge, belief or reasonable suspicion that a child has been harmed, is being harmed, or is at risk of being harmed. The Act defines harm as assault, ill-treatment, neglect or sexual abuse, and covers single and multiple instances. The threshold of harm for each category of abuse at which mandated persons have a legal obligation to report concerns is outlined below. If you are in doubt about whether your concern reaches the legal definition of harm for making a mandated report, Tusla can provide advice in this regard. You can find details of who to contact to discuss your concern on the Tusla website ([www.tusla.ie](http://www.tusla.ie)). If your concern does not reach the threshold for mandated reporting, but you feel it is a reasonable concern about the welfare or protection of a child, you should report it to Tusla under this Guidance.

### **Neglect**

Neglect is defined as ‘to deprive a child of adequate food, warmth, clothing, hygiene, supervision, safety or medical care’. The threshold of harm, at which you must report to Tusla under the Children First Act 2015, is reached when you know, believe or have reasonable grounds to suspect that a child’s needs have been neglected, are being neglected, or are at risk of being neglected to the point where the child’s health, development or welfare have been or are being seriously affected, or are likely to be seriously affected.

### **Emotional Abuse/Ill-treatment**

Ill-treatment is defined as ‘to abandon or cruelly treat the child, or to cause or procure or allow the child to be abandoned or cruelly treated’. Emotional abuse is covered in the

definition of ill-treatment used in the Children First Act 2015. The threshold of harm, at which you must report to Tusla under the Children First Act 2015, is reached when you know, believe or have reasonable grounds to suspect that a child has been, is being, or is at risk of being ill-treated to the point where the child's health, development or welfare have been or are being seriously affected, or are likely to be seriously affected.

### **Physical Abuse**

Physical abuse is covered in the references to assault in the Children First Act 2015. The threshold of harm, at which you must report to Tusla under the Children First Act 2015, is reached when you know, believe or have reasonable grounds to suspect that a child has been, is being, or is at risk of being assaulted and that as a result the child's health, development or welfare have been or are being seriously affected, or are likely to be seriously affected.

### **Sexual Abuse**

If the mandated person knows, believes or has reasonable grounds to suspect that a child has been, is being, or is at risk of being sexually abused, they must report this to Tusla under the Children First Act 2015. Sexual abuse to be reported under the Children First Act 2015 [as amended by section 55 of the Criminal Law (Sexual Offences) Act 2017] is defined as an offence against the child, as listed in Schedule 3 of the Children First Act 2015

### **Confidentiality Statement**

- Macnas commits itself to ensuring people's rights to confidentiality are honoured and respected. However in relation to child protection and welfare Macnas will observe the following exceptions;

- Information that is pertinent to ensuring the safeguarding of children shall be forwarded strictly on a need to know basis,
- The provision of such information to the relevant parties is not a breach of confidentiality,
- Total confidentiality cannot be guaranteed where the welfare, security or best interests of a child are at risk,
- Primary carers and children have the right to know if information about them is being shared with other relevant third parties i.e. Health Service executive Duty Social Workers, Gardai. Unless doing so would place the child at further risk,
- Images of a child will not be used for any reason without the consent of the parent/primary carers/guardian. Macnas is however aware that it can not guarantee that recording of public performances will not be made by third parties outside of the control of Macnas,
- Macnas will put in place a procedure in relation to the use of images of children by the company,



- Procedures will also be put in place for the recording and storing of information in line with our confidentiality policy e.g. registering with the Data Commissioner in relation to storage of information.

### **Recruitment and Selection of Staff**

All staff in Macnas are selected for their roles on the basis of personal qualities and competencies for their particular role. All staff will be expected to undergo Gardai clearance once that becomes available.

Until that is the case Macnas will strive to ensure that all staff selected are suitable for work with children. Staff are expected to be familiar with and work to ensure best practice. Similarly staff are expected to be fully au fait with Macnas Child Protection policies and procedures.

To ensure this is the case all staff in Macnas undergo an induction where they are made familiar with the contents of the staff handbook. Macnas are committed to ongoing training for all staff and staff are therefore regularly canvassed as to training needs which then form part of Macnas' overall training programme.

In order to ensure the careful selection and Macnas will adhere to the following principles as regards ensuring that all staff are carefully selected trained and supervised so as to ensure the welfare of children attending Macnas is a priority;

- All posts will have a clear job description,
- Posts will be advertised widely,
- The most suitably qualified staff will be selected for any particular post,
- Candidates are to apply via application form only,
- Candidates will be required to supply at least two references. These are to be relevant to the position being sought, up to date. All references will be taken up by Macnas independently,
- Candidates are required to sign a declaration form,
- Candidates will be formally interviewed for the position,
- There will be a probationary period for any position (the length of this period may vary depending on the position),
- Anyone who is deemed not suitable or who would be seen to constitute a risk will not be employed,
- Causes for exclusion would include the following;  
Previous child related convictions

Refusal to sign application and/or declaration form  
Concealing information on one's suitability for working with children  
Refusal to consent to Garda clearance  
Insufficient or inaccurate information regarding proof of identity

- All staff are required to consent to Garda clearance when that becomes available,

## **Management and Supervision of Staff**

All staff in Macnas take part in an induction. In this they are made familiar with the structure of the organization, health and safety procedures and child protection policies and procedures. These are all outlined in the staff handbook copies of which are kept in Fisheries Field.

All freelance staff contracted in by Macnas are expected to familiarize themselves with the contents of the staff handbook and agree to abide by the policies and procedures contained in that book.

In order to ensure the above Macnas commits itself to ensuring the following;

- All staff take part in an induction training process
- All staff are fully cognisant and compliant with the Child Protection policies and procedures of Macnas
- All staff know the identity of the Designated Person and their Deputy to whom they are to bring any concerns regarding child protection issues
- All staff are aware of the procedures for reporting allegations made against staff members or others contracted in by Macnas.
- All new staff are required to undergo a probationary period.
- All staff will receive an appropriate level of supervision and take part in regular reviews of their work practices
- All staff will be provided with child protection training

## **Involvement of Primary Carers**

Macnas are committed to being open to and involving primary carers in our work.

Macnas undertakes to ensure the following;

- Keep primary carers advised as regards Macnas child protection policies,
- Inform primary carers, schools, youth groups, community groups of Macnas activities,
- Issue contact and consent forms where relevant,
- Comply with Health and Safety practices,
- Operate child centred policies and practices,
- Adhere to our recruitment guidelines,
- Use age appropriate activities,
- Encourage and facilitate the involvement of parents/guardians/ primary carers where appropriate,

Should Macnas or its staff have any concerns about the welfare of any child attending Macnas we will,

- Respond appropriately to the needs of the child,
- Inform primary carers on an on going basis unless this places the child at further risk,
- Where there are child protection and welfare concerns Macnas is obliged to these on to the Health Service Executive Duty Social Worker and in an emergency the Gardai,
- In the event of a complaint against a member of staff we will immediately ensure the safety and welfare of the child and inform the primary carers as appropriate,

Macnas as a child centred organization commits itself to putting the interest of the child first. To ensure this Macnas undertake to,

- Contact Health Service executive Duty Social Worker and Gardai where there is a child protection concern,
- Encourage and facilitate primary carers to work with Macnas under these guidelines to ensure the welfare of children attending Macnas,
- Have a Designated Person and Deputy available for consultation with primary carers in case of concern over a child's welfare,

### **Dealing with Allegation against Staff**

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In the event of an allegation being made against a staff member or others contracted in by Macnas the protection of the welfare of the child is of the utmost importance.

In order to ensure that any allegations are dealt with fairly and promptly Macnas will have two procedures that will operate in tandem. One concerning itself with the welfare of the child, and the other focusing on the person against whom the allegation has been made.

The procedures to be followed in relation to the child have already been outlined in this document. The procedures in relation to the staff member or other contract worker are outlined below.

Macnas is aware that any actions taken in relation to staff members or other contract work take place against the background of the nature of the employment contract, job description and responsibilities.

Throughout this process Macnas will inform the relevant authorities as to the nature of the allegation and will co-operate with these same authorities in the event of an investigation.

Until the allegation is investigated and a conclusion arrived at Macnas will work to ensure that appropriate protective measures are put in place. These measures will aim to protect the child while at the same time not penalising the person against whom the allegation has been made unnecessarily. Such measures may include taking legal advice as to how to proceed.

As mentioned above two procedures will be followed in relation to any allegation;

- 1) In relation to the child Noeline Kavanagh will be responsible for following the procedures here. If the allegations are made about the Designated Person then their Deputy will follow procedures
- 2) In relation to the staff member or contract worker Noeline Kavanagh will be responsible for following the procedures here.

- Throughout the process the safety of children is to be paramount
- In relation to children the procedures outlined previously are to be followed
- Primary carers and children should be informed of how matters are proceeding throughout the process
- The staff member or contracted person should be informed of the nature of the allegation. They should also be allowed the opportunity to respond
- The Chairperson of the Board will be informed as soon as possible of the allegations and any actions taken
- Any actions taken should be carried out in consultation with the Health service executive and the Gardai
- After consultation the Chairperson of the Board is to inform the person against whom the allegation is made of what procedures are being followed

### **Complaint and Comments Procedures**

Macnas aims to respond to all complaints and comments in a timely and appropriate manner. In order to achieve this the following procedures are to be followed;

- All complaints/comments are to be logged. There is a book for this in the office of the Fisheries Field.
- When logging a complaint/comment it is important that the following information is included,
  - 1) name of person making the complaint/comment
  - 2) name of the person to whom the complaint/comment was made
  - 3) date and time
  - 4) nature of the complaint/comment
- The person who logs the complaint then passes this on to any of the permanent Macnas staff who will then direct it to the most appropriate person to deal with the complaint/comment
- All complaints/comments are to be responded to within a period of 4 weeks
- Any action taken as a result of the complaint/comment is to be logged in the complaint/comments book alongside the original complaint/comment

- The person to whom the complaint/comment was originally made is to be kept informed as to progress

### **Health, Safety and Accidents Procedure**

- Macnas has recently produced Health and Safety guidelines for the Fisheries Field workshop. Copies of this are located in the office in Fisheries Field. All staff are expected to be familiar with and observe the guidelines at all times.

All accidents are to be logged in the Accident Book located in the office in the Fisheries Field workshop. The following information is to be recorded in the book;

- Time and date of the accident,
- Name of person/persons involved
- Name of person logging the accident
- Actions taken

In the event of an accident involving a child the following extra information is to be included and procedures followed;

- Name of parent/guardian/primary carer
- Time at which they were informed of the accident

First Aid boxes are located in the office in the Fisheries Field. These are regularly checked and re-stocked. It is the responsibility of staff running the field and workshops to ensure that first aid boxes are fully stocked before starting any workshop. First Aid boxes are to accompany any off site work e.g. parade, other public performance and workshops.

The guidelines contained in the Health and Safety book for the Fisheries Field regarding, use of, storage and disposal of hazardous substances are to be followed rigorously.

## **Types of child abuse and how they may be recognised**

Child abuse can be categorised into four different types: neglect, emotional abuse, physical abuse and sexual abuse. A child may be subjected to one or more forms of abuse at any given time. Abuse and neglect can occur within the family, in the community or in an institutional setting. The abuser may be someone known to the child or a stranger, and can be an adult or another child. In a situation where abuse is alleged to have been carried out by another child, you should consider it a child welfare and protection issue for both children and you should follow child protection procedures for both the victim and the alleged abuser. The important factor in deciding whether the behaviour is abuse or neglect is the impact of that behaviour on the child rather than the intention of the parent/carer. The definitions of neglect and abuse presented in this section are not legal definitions. They are intended to describe ways in which a child might experience abuse and how this abuse may be recognised.

### **Neglect**

Child neglect is the most frequently reported category of abuse, both in Ireland and internationally. Ongoing chronic neglect is recognised as being extremely harmful to the development and well-being of the child and may have serious long-term negative consequences. Neglect occurs when a child does not receive adequate care or supervision to the extent that the child is harmed physically or developmentally. It is generally defined in terms of an omission of care, where a child's health, development or welfare is impaired by being deprived of food, clothing, warmth, hygiene, medical care, intellectual stimulation or supervision and safety. Emotional neglect may also lead to the child having attachment difficulties. The extent of the damage to the child's health, development or welfare is influenced by a range of factors. These factors include the extent, if any, of positive influence in the child's life as well as the age of the child and the frequency and consistency of neglect. Neglect is associated with poverty but not necessarily caused by it. It is strongly linked to parental substance misuse, domestic violence, and parental mental illness and disability. A reasonable concern for the child's welfare would exist when neglect becomes typical of the relationship between the child and the parent or carer. This may become apparent where you see the child over a period of time, or the effects of neglect may be obvious based on having seen the child once. The following are features of child neglect:

- Children being left alone without adequate care and supervision
  - Malnourishment, lacking food, unsuitable food or erratic feeding
  - Non-organic failure to thrive, i.e. a child not gaining weight due not only to malnutrition but also emotional deprivation
  - Failure to provide adequate care for the child's medical and developmental needs, including intellectual
- Inadequate living conditions – unhygienic conditions, environmental issues, including lack of adequate heating and furniture
- Lack of adequate clothing
  - Inattention to basic hygiene
  - Lack of protection and exposure to danger, including moral danger, or lack of supervision appropriate to the child's age
  - Persistent failure to attend school
  - Abandonment or desertion

## **Emotional abuse**

Emotional abuse is the systematic emotional or psychological ill-treatment of a child as part of the overall relationship between a caregiver and a child. Once-off and occasional difficulties between a parent/carer and child are not considered emotional abuse. Abuse occurs when a child's basic need for attention, affection, approval, consistency and security are not met, due to incapacity or indifference from their parent or caregiver. Emotional abuse can also occur when adults responsible for taking care of children are unaware of and unable (for a range of reasons) to meet their children's emotional and developmental needs. Emotional abuse is not easy to recognise because the effects are not easily seen. A reasonable concern for the child's welfare would exist when the behaviour becomes typical of the relationship between the child and the parent or carer. Emotional abuse may be seen in some of the following ways:

- Rejection
  - Lack of comfort and love
  - Lack of attachment
  - Lack of proper stimulation (e.g. fun and play)
  - Lack of continuity of care (e.g. frequent moves, particularly unplanned)
  - Continuous lack of praise and encouragement
  - Persistent criticism, sarcasm, hostility or blaming of the child
  - Bullying
  - Conditional parenting in which care or affection of a child depends on his or her behaviours or actions
    - Extreme overprotectiveness
    - Inappropriate non-physical punishment (e.g. locking child in bedroom)
    - Ongoing family conflicts and family violence
    - Seriously inappropriate expectations of a child relative to his/her age and stage of development
- there may be no physical signs of emotional abuse unless it occurs with another type of abuse. A child may show signs of emotional abuse through their actions or emotions several ways. These include insecure attachment, unhappiness, low self-esteem, educational and developmental underachievement, risk taking and aggressive behaviour. It should be noted that no one indicator is conclusive evidence of emotional abuse. Emotional abuse is more likely to impact negatively on a child where it is persistent over time and where there is a lack of other protective factors.

## **Physical abuse**

Physical abuse is when someone deliberately hurts a child physically or puts them at risk of being physically hurt. It may occur as a single incident or as a pattern of incidents. A reasonable concern exists where the child's health and/ or development is, may be, or has been damaged as a result of suspected physical abuse. Physical abuse can include the following:

- Physical punishment
- Beating, slapping, hitting or kicking
- Pushing, shaking or throwing
- Pinching, biting, choking or hair-pulling
- Use of excessive force in handling
- Deliberate poisoning
- Suffocation
- Fabricated/induced illness



## **Sexual abuse**

Sexual abuse occurs when a child is used by another person for his or her gratification or arousal, or for that of others. It includes the child being involved in sexual acts (masturbation, fondling, oral or penetrative sex) or exposing the child to sexual activity directly or through pornography. Child sexual abuse may cover a wide spectrum of abusive activities. It rarely involves just a single incident and in some instances occurs over a number of years. Child sexual abuse most commonly happens within the family, including older siblings and extended family members. Cases of sexual abuse mainly come to light through disclosure by the child or his or her siblings/friends, from the suspicions of an adult, and/or by physical symptoms. Examples of child sexual abuse include the following:

- Any sexual act intentionally performed in the presence of a child
- An invitation to sexual touching or intentional touching or molesting of a child's body whether by a person or object for the purpose of sexual arousal or gratification
- Masturbation in the presence of a child or the involvement of a child in an act of masturbation
- Sexual intercourse with a child, whether oral, vaginal or anal
- Sexual exploitation of a child, which includes:
  - Inviting, inducing or coercing a child to engage in prostitution or the production of child pornography [for example, exhibition, modelling or posing for the purpose of sexual arousal, gratification or sexual act, including its recording (on film, videotape or other media) or the manipulation, for those purposes, of an image by computer or other means]
  - Inviting, coercing or inducing a child to participate in, or to observe, any sexual, indecent or obscene act
  - Showing sexually explicit material to children, which is often a feature of the 'grooming' process by perpetrators of abuse
  - Exposing a child to inappropriate or abusive material through information and communication technology

## **Consensual sexual activity involving an adult and an underage person**

An Garda Síochána will deal with any criminal aspects of a sexual abuse case under the relevant criminal justice legislation. The prosecution of a sexual offence against a child will be considered within the wider objective of child welfare and protection. The safety of the child is paramount and at no stage should a child's safety be compromised because of concern for the integrity of a criminal investigation. In relation to child sexual abuse, it should be noted that in criminal law the age of consent to sexual intercourse is 17 years for both boys and girls. Any sexual relationship where one or both parties are under the age of 17 is illegal. However, it may not necessarily be regarded as child sexual abuse.

## **Circumstances which may make children more vulnerable to harm**

Some children may be more vulnerable to abuse than others. Also, there may be particular times or circumstances when a child may be more vulnerable to abuse in their lives. In particular, children with disabilities, children with communication difficulties, children in care or living away from home, or children with a parent or parents with problems in their own lives may be more susceptible to harm. The following list is intended to help you identify the range of issues

in a child's life that may place them at greater risk of abuse or neglect. It is important for you to remember that the presence of any of these factors does not necessarily mean that a child in those circumstances or settings is being abused.

- Parent or carer factors:

- Drug and alcohol misuse
- Addiction, including gambling
- Mental health issues
- Parental disability issues, including learning or intellectual disability
- Conflictual relationships
- Domestic violence
- Adolescent parents
- Child factors
  - Age
  - Gender
  - Sexuality
  - Disability
- Mental health issues, including self-harm and suicide
- Communication difficulties
- Trafficked/Exploited
- Previous abuse
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- Community factors:

- Cultural, ethnic, religious or faith-based norms in the family or community which may not meet the standards of child welfare or protection required in this jurisdiction
- Culture-specific practices, including:
  - Female genital mutilation
  - Forced marriage
  - Honour-based violence
  - Radicalisation

- Environmental factors:

- Housing issues
- Children who are out of home and not living with their parents, whether temporarily or permanently
- Poverty/Begging
- Bullying
- Internet and social media-related concern

- Poor motivation or willingness of parents/guardians to engage:

- Non-attendance at appointments
- Lack of insight or understanding of how the child is being affected
- Lack of understanding about what needs to happen to bring about change
- Avoidance of contact and reluctance to work with services
- Inability or unwillingness to comply with agreed plans

You should consider these factors as part of being alert to the possibility that a child may be at risk of suffering abuse and in bringing reasonable concerns to the attention of Tusla.

## **Bullying**

It is recognised that bullying affects the lives of an increasing number of children and can be the cause of genuine concerns about a child's welfare. Bullying can be defined as repeated aggression – whether it is verbal, psychological or physical – that is conducted by an individual or group against others. It is behaviour that is intentionally aggravating and intimidating, and occurs mainly among children in social environments such as schools. It includes behaviours such as physical aggression, cyberbullying, damage to property, intimidation, isolation/exclusion, name calling, malicious gossip and extortion. Bullying can also take the form of abuse based on gender identity, sexual preference, race, ethnicity and religious factors. With developments in modern technology, children can also be the victims of non-contact bullying, via mobile phones, the internet and other personal devices. While bullying can happen to any child, some may be more vulnerable. These include: children with disabilities or special educational needs; those from ethnic minority and migrant groups; from the Traveller community; lesbian, gay, bisexual or transgender (LGBT) children and those perceived to be LGBT; and children of minority religious faiths. There can be an increased vulnerability to bullying among children with special educational needs. This is particularly so among those who do not understand social cues and/or have difficulty communicating. Some children with complex needs may lack understanding of social situations and therefore trust everyone implicitly. Such children may be more vulnerable because they do not have the same social skills or capacity as others to recognise and defend themselves against bullying behaviour.

Bullying in schools is a particular problem due to the fact that children spend a significant portion of their time there and are in large social groups. In the first instance, the school authorities are responsible for dealing with such bullying. In cases of serious instances of bullying where the behaviour is regarded as possibly abusive, you may need to make a referral to Tusla and/or An Garda Síochána.

## **Responsibilities of organisations**

Consistent with the principles of Children First, every organisation, both public and private, that is providing services for children or that is in regular direct contact with children should:

- ensure best practice in the recruitment of staff or volunteers, which includes Garda vetting, taking up of references, good HR practices in interviewing, induction training, probation and ongoing supervision and management;
- ensure that staff members or volunteers are aware of how to recognise signs of child abuse or neglect.

Contact Details Child Protection – Children First GALWAY Galway City, Social Work Department, Local Health Office, 25 Newcastle Road, Galway, Co. Galway 091 546366

## **Relevant legislation**

CHILD CARE ACT 1991 This is the key piece of legislation which regulates child care policy in Ireland. Under this Act, Tusla has a statutory responsibility to promote the welfare of children who are not receiving adequate care and protection. If it is found that a child is not receiving adequate care and protection, Tusla has a duty to take appropriate action to promote the welfare of the child. This may include supporting families in need of

assistance in providing care and protection to their children. The Child Care Act also sets out the statutory framework for taking children into care, if necessary.

**PROTECTIONS FOR PERSONS REPORTING CHILD ABUSE ACT 1998** This Act protects you if you make a report of suspected child abuse to designated officers of Tusla, the Health Service Executive (HSE) or to members of the Gardaí as long as the report is made in good faith and is not malicious. Designated officers also include persons authorised by the Chief Executive Officer of Tusla to receive and acknowledge reports of mandated concerns about a child from mandated persons under the Children First Act 2015. This legal protection means that even if you report a case of suspected child abuse and it proves unfounded, a plaintiff who took an action would have to prove that you had not acted reasonably and in good faith in making the report. If you make a report in good faith and in the child's best interests, you may also be protected under common law by the defence of qualified privilege. You can find the full list of persons in Tusla and the HSE who are designated officers under the 1998 Act, on the website of each agency ([www.tusla.ie](http://www.tusla.ie) and [www.hse.ie](http://www.hse.ie)).

**CRIMINAL JUSTICE ACT 2006** Section 176 of this Act created an offence of reckless endangerment of children. This offence may be committed by a person who has authority or control over a child or abuser who intentionally or recklessly endangers a child by: 1. Causing or permitting the child to be placed or left in a situation that creates a substantial risk to the child of being a victim of serious harm or sexual abuse; or 2. Failing to take reasonable steps to protect a child from such a risk while knowing that the child is in such a situation.

**CRIMINAL JUSTICE (WITHHOLDING OF INFORMATION ON OFFENCES AGAINST CHILDREN AND VULNERABLE PERSONS) ACT 2012** Under this Act, it is a criminal offence to withhold information about a serious offence, including a sexual offence, against a person under 18 years or a vulnerable person. The offence arises where a person knows or believes that a specified offence has been committed against a child or vulnerable person and he or she has information which would help arrest, prosecute or convict another person for that offence, but fails without reasonable excuse to disclose that information, as soon as it is practicable to do so, to a member of An Garda Síochána. The provisions of the Withholding legislation are in addition to any reporting requirements under the Children First Act 2015.

**NATIONAL VETTING BUREAU (CHILDREN AND VULNERABLE PERSONS) ACTS 2012–2016** Under these Acts, it is compulsory for employers to obtain vetting disclosures in relation to anyone who is carrying out relevant work with children or vulnerable adults. The Acts create offences and penalties for persons who fail to comply with their provisions. Statutory obligations on employers in relation to Garda vetting requirements for persons working with children and vulnerable adults are set out in the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012–2016.

**CHILDREN FIRST ACT 2015** The Children First Act 2015 is an important addition to the child welfare and protection system as it will help to ensure that child protection concerns are brought to the attention of Tusla without delay. The Act provides for mandatory reporting of child welfare and protection concerns by key professionals; comprehensive risk assessment and planning for a strong organisational culture of safeguarding in all services provided to children; a provision for a register of noncompliance; and the statutory underpinning of the existing Children First Interdepartmental Implementation

Group which promotes and oversees cross-sectoral implementation and compliance with Children First.

**CRIMINAL LAW (SEXUAL OFFENCES) ACT 2017** This Act addresses the sexual exploitation of children and targets those who engage in this criminal activity. It creates offences relating to the obtaining or providing of children for the purposes of sexual exploitation. It also creates offences of the types of activity which may occur during the early stages of the predatory process prior to the actual exploitation of a child, for example, using modern technology to prey on children and making arrangements to meet with a child where the intention is to sexually exploit the child. The Act also recognises the existence of underage, consensual peer relationships where any sexual activity falls within strictly defined age limits and the relationship is not intimidator or exploitative.