Child Protection Procedures for Primary and Post-Primary Schools 2017

Department of Education and Skills

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Minister's Foreword

Foreword

All of us who are involved with working with children and young people must do our utmost to ensure their protection and welfare. I know that this responsibility is taken very seriously by our schools and that there is a very strong culture of child protection across the school sector.

The recent publication of the updated Children First: National Guidance for the Protection and Welfare of Children and the full commencement of the Children First Act 2015 are important milestones in the State's child protection arrangements and require all of us to place a renewed focus on child protection.

These updated Child Protection Procedures for Primary and Post Primary Schools 2017 have been developed following extensive consultation with the education partners and take account of the new statutory obligations under the Children First Act, 2015 and the recently updated Children First: National Guidance for the Protection and Welfare of Children.

The protection and welfare of children must continue be of paramount importance for every school. The purpose of these procedures is to give clear direction and guidance to school management and school personnel in relation to meeting the new statutory obligations under the Children First Act, 2015 and in the continued implementation within the school setting of the best practice guidance set out in the updated Children First: National Guidance for the Protection and Welfare of Children.

I would like to express my sincere thanks to the education partners and all those involved in the development of these important new procedures.

Richard Bruton, TD
Minister for Education and Skills

Glossary of Terms

Age of Consent: The age of consent is 17 years. It is a criminal offence to engage or attempt to engage in a sexual act with a child under 17 years of age.

Agency: In the Children First Act, 2015 "agency" means the Child and Family Agency (Tusla).

Board of Management: In this document, unless the context requires otherwise board of management means a board of management established under section 14 of the Education Act, 1998 and also refers to any other person or persons appointed by the patron to manage the school on behalf of the patron.

Child: For the purpose of these procedures, a 'child' means anyone who is under 18 years of age excluding a person who is or who has been married.

Child Abuse: Where the words "child abuse" are used in these procedures they should be taken to include all four categories (neglect, emotional abuse, physical abuse and sexual abuse) as outlined in chapter 2 of these procedures and in chapter 2 of Children First: National Guidance for the protection and welfare of children 2017.

Child Safeguarding Statement: A Child Safeguarding Statement is a statement prepared in accordance with section 11 of the Children First Act, 2015.

Department: In these procedures Department refers to the Department of Education and Skills unless the context requires otherwise.

Designated Liaison Person (DLP): The person nominated by the board of management, as the designated liaison person for the school when dealing with Tusla - Child and Family Agency, An Garda Síochána and other parties in connection with allegations of and/or concerns about child abuse. The role of the designated liaison person is outlined in section 3.5 of these procedures.

Employee: The word "employee" is synonymous with the phrase "school personnel" as set out in this glossary. "Employee" is used in chapter 7 of these procedures specifically in order to address the employer/employee relationship.

Employer: Employer means the appropriate school authority or agent. In the case of primary schools (other than primary schools under the patronage of an Education and Training Board), voluntary secondary schools and community and comprehensive schools the board of management is the employer. In the case of schools which operate under the Education and Training Board, the ETB itself is the employer. Therefore in these procedures, the phrase "the employer" is used to refer to the board of management and/or the ETB as appropriate.

Harm: Harm in relation to a child has the meaning assigned to it under section 2 of the Children First Act, 2015.

Mandated Person: Mandated person means a person who is a person specified in schedule 2 of the Children First Act, 2015 and includes all teachers registered with the Teaching Council.

Parent / Carer: The phrase "parent/carer" refers to the child's parents or carer as appropriate. It encompasses the definition of "parent" in the Education Act, 1998 to include
a foster parent, a guardian appointed under relevant guardianship of children legislation, or other person acting in loco parentis who has a child in his or her care subject to any statutory power or order of a court and, in the case of a child who has been adopted under relevant adoption legislation, or where a child has been adopted outside the State means the adopter or adopters or the surviving adopter.

Provider: Provider has the meaning assigned to it under section 8 of the Children First Act, 2015. All recognised schools fall within the definition of "provider".

Relevant Person: Relevant person has the meaning assigned to it under section 8 of the Children First Act, 2015 and is a person who is appointed by a provider of a relevant service to be the first point of contact in respect of the provider's child safeguarding statement. In a school setting the relevant person shall be the designated liaison person.

Relevant Service: Relevant service means any work or activities specified in schedule 1 of the Children First Act, 2015.

Risk Assessment: Risk assessment as used in the Children First Act, 2015 means an assessment of any potential for harm to a child while availing of the provider's service.

School: School means a recognised primary or post-primary school and includes centres for education as defined in the Education Act, 1998 and attended by children under the age of 18 years.

School Authority: School authority refers to the relevant managerial authority for the school or centre for education concerned e.g. the relevant ETB in the case of ETB schools and board of management or equivalent in the case of all other schools/centres for education.

School Personnel: The phrase "school personnel" as used in these procedures is a generic term to encompass all adults who are involved in the operation of the school. It covers employees and voluntary workers, and includes parent association members when they are working in the school.

Chapter 1: Introduction and Legal Framework

1.1 Introduction

1.1.1 The procedures contained in this document have been developed following consultations between the Department of Education and Skills, organisations representing school management, parents and teachers, the Department of Children and Youth Affairs and Tusla - Child and Family Agency (hereinafter referred to as Tusla). The procedures take account of the Children First Act, 2015 and the updated Children First: National Guidance for the Protection and Welfare of Children published in 2017 (hereinafter referred to as Children First National Guidance 2017).

1.1.2 The Children First Act, 2015 has placed certain statutory obligations on certain professionals, including all registered teachers, who are referred to as mandated persons in the Act. It has also placed certain statutory obligations on certain organisations that provide services to children, including all schools. A statutory obligation is an obligation imposed by legislation.

1.1.3 Children First National Guidance 2017 outlines the new statutory obligations that apply to mandated persons such as registered teachers and the new statutory obligations that apply to organisations such as schools under the Act. It also sets out the best practice (non-statutory) obligations which are in place for all individuals (including teachers) and for all sectors of society. The statutory obligations under the Children First Act, 2015 operate side by side with the best practice (non-statutory) obligations.

1.1.4 The purpose of these revised procedures is to give direction and guidance to school authorities and to school personnel in relation to meeting their new statutory obligations under the Children First Act, 2015 and in the continued implementation of the best practice (non-statutory) guidance set out in Children First National Guidance 2017.

1.1.5 It is important to note that under Children First National Guidance 2017, the existing best practice (non-statutory) obligations to report to Tusla any reasonable concern that a child has been, is being, or is at risk of being abused or neglected continue to apply as heretofore.

1.1.6 These updated procedures for schools therefore continue the previous procedures' requirement that school personnel, including registered teachers, bring any concern that a child has been, is being, or is at risk of being abused or neglected to the attention of the designated liaison person (DLP) in the school.

1.1.7 In addition, under section 14 of the Children First Act, 2015 every registered teacher, as a mandated person, now has a statutory obligation to make his or her own report to Tusla where a child protection concern is at or above a threshold of harm as defined in the Act. In these procedures, such reports are referred to as mandated reports.

1.1.8 Chapter 4 of these procedures includes further information for teachers on the threshold of harm at which a mandated report must be made. Chapter 5 sets out the relevant reporting procedures to be followed by teachers in relation to such reports, including the requirement to liaise with the DLP and to submit a mandated report to Tusla jointly with the DLP.

1.1.9 Section 10 of the Children First Act, 2015 places a statutory obligation on schools to ensure, as far as practicable, that each child attending the school is safe from harm while attending school or otherwise participating in school activities. Schools are also required under section 11 of the Act to prepare and publish a Child Safeguarding Statement. Further information in relation to the statutory obligations on schools is set out in chapter 8 of these procedures.

1.1.10 Separate to the Children First Act, 2015 all schools continue to have a general duty of care to their pupils. Schools are also well placed to recognise wider child welfare issues that if addressed appropriately at an early stage can play a key role in the overall welfare and protection of children and in the prevention of child abuse and neglect.

1.1.11 These procedures aim to provide necessary information to school authorities and school personnel to help them to be alert to and be aware of what to do in situations where there is a concern, suspicion or allegation that a child may have been abused or neglected, is being abused or neglected, or is at risk of abuse or neglect. In all cases, the most important consideration to be taken into account is the protection of children. In this regard, these procedures emphasise that the safety, well-being and protection of children must be a priority.

1.1.12 These procedures require that in any situation where a member of school personnel, including a registered teacher, receives an allegation or has a suspicion that a child may have been abused or neglected, is being abused or neglected, or is at risk of being abused or neglected, he or she shall without delay report the matter to the DLP in accordance with the procedures set out in chapter 5. The DLP is responsible for ensuring that any reasonable grounds for concern are reported to Tusla. It is not necessary for the DLP to prove that abuse has occurred in order to report a concern. All that is required is that there are reasonable grounds for concern.

1.1.13 Where a registered teacher receives an allegation or has a suspicion that a child may have been abused or neglected, is being abused or neglected, or is at risk of being abused or neglected, in addition to reporting the matter to the DLP in the school**,** he or she must also consider whether it is necessary for him or her (i.e. the registered teacher) to make a mandated report to Tusla in respect of that concern. In that regard, these procedures require that the registered teacher shall liaise with the DLP and follow the procedures set out in Chapter 5.

1.1.14 All boards of management are required to formally adopt and implement these revised procedures as part of the school's Child Safeguarding Statement. School authorities and school personnel are required to adhere to these revised procedures in dealing with allegations or suspicions of child abuse. These procedures apply to both primary and post primary schools and replace previous procedures issued in 2011.

1.2 Structure of these Procedures

1.2.1 **Chapters 1, 2 and 3** provide guidance on the legal framework in relation to child protection, the four main types of abuse and how abuse and neglect can be recognised and the responsibilities for all school personnel, including the DLP.

1.2.2 **Chapter 4** outlines the statutory obligations that apply to all registered teachers as mandated persons under the Children First Act, 2015.

1.2.3 **Chapter 5** outlines the reporting procedures to be followed by all school personnel.

1.2.4 **Chapter 6** outlines the role of Tusla and an Garda Síochána.

1.2.5 **Chapter 7** provides guidance and direction to schools in situations where an allegation of abuse is made against a school employee.

1.2.6 **Chapter 8** contains information for schools on child safeguarding and outlines their statutory obligations under the Children First Act, 2015.

1.2.7 **Chapter 9** contains information on the new oversight requirements at school level and outlines the wider oversight context within which schools operate.

1.3 Legal Framework

1.3.1 The Children First Act, 2015

The Children First Act, 2015 put certain elements of the Children First National Guidance 2017 on a statutory footing. It provides for a number of key child protection measures that are relevant to schools and registered teachers including:

- A statutory obligation on schools to keep children safe from harm and to prepare and display a Child Safeguarding Statement;
- A statutory obligation on registered teachers to report child protection concerns at or above a defined threshold to Tusla;
- A statutory obligation on mandated persons to assist Tusla in the assessment of a child protection risk, where requested to do so by Tusla in accordance with the Act.

The Children First Act, 2015 operates side-by-side with the Children First National Guidance 2017. Children First National Guidance 2017 sets out the above statutory obligations of the Act and also the best practice (non-statutory) obligations which continue to apply to all school personnel and to all schools.

Section 17 of the Children First Act, 2015 makes it an offence for a person to disclose information to a third party which has been shared by Tusla during the course of an assessment arising from a mandated report, save in accordance with law, or unless Tusla has given that person written authorisation to do so. Failure to comply with this section of the Act is an offence liable to a fine or imprisonment for up to six months or both.

1.3.2 The 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.

1.3.3 Protections for Persons Reporting Child Abuse Act 1998

This Act protects a person making a report of suspected child abuse to designated officers of Tusla or of the Health Service Executive (HSE) or to members of An Garda Síochána 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 a person reports a case of suspected child abuse and it proves unfounded, a plaintiff who took an action would have to prove that the person had not acted reasonably and in good faith in making the report. A person who makes a report in good faith and in the child's best interests may also be protected under common law by the defence of qualified privilege.

The Act created an offence of false reporting of child abuse where a person makes a report of child abuse to a designated officer of Tusla or of the Health Service Executive (HSE) or to a member of An Garda Síochána "knowing that statement to be false". This is a criminal offence designed to protect innocent persons from malicious reports.

The full list of persons in Tusla and the HSE who are designated officers under the 1998 Act can be found on the respective websites of each agency (www.tusla.ie and www.hse.ie)

1.3.4 Criminal Justice Act 2006 – Reckless Endangerment

Section 176 of the 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 an abuser, who intentionally or recklessly endangers the child by:

a) 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
b) failing to take reasonable steps to protect a child from such a risk while knowing that the child is in such a situation.

1.3.5 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 intimidatory or exploitative.

1.3.6 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 reporting obligations under the Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 are **in addition** to the reporting obligations under Children First National Guidance 2017 and the Children First Act, 2015. Accordingly it is very important to note that -

- the fact that a member of school personnel has dealt with a child protection or welfare concern in accordance with these procedures and/or reported it under the Children First Act, 2015 does not absolve that person of his or her statutory obligation to disclose information to An Garda Síochána under the Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 where that person has information that falls within the scope of that Act **or**
- the fact that a member of school personnel has disclosed information to An Garda Síochána does not absolve that person of his or her obligations to report concerns to Tusla in accordance with the requirements of these procedures and/or in accordance with requirements of the Children First Act, 2015.

The specified offences against children are listed in schedule 1 of the Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012. The specified offences against vulnerable persons are listed in schedule 2 of that Act.

1.3.7 National Vetting Persons (Children and Vulnerable Persons) Acts 2012 to 2016

The National Vetting Bureau (Children and Vulnerable Persons) Acts 2012 to 2016 (the Vetting Act) places statutory obligations on school authorities (other than in certain limited circumstances as set out in the Vetting Act) to obtain a vetting disclosure from the National Vetting Bureau prior to employing, contracting or placing a person to undertake relevant work or activities with children or vulnerable persons or prior to permitting a person to undertake such relevant work or activities on behalf of the school. The Vetting Act also provides for the statutory retrospective vetting and periodic re-vetting of employees, volunteers and others who undertake relevant work or activities with children or vulnerable persons. It is a criminal offence for a school authority not to comply with its statutory vetting obligations under the Act.

It is important to note that the National Vetting Bureau of An Garda Síochána does not decide on the suitability of any person to work with children or vulnerable persons. Decisions on suitability for such work rest at all times with the relevant school authorities, and the results of vetting should form only one component of the recruitment decision. Chapter 8 of these procedures contains further information in relation to the requirements for Garda vetting and the need for thorough recruitment procedures from a child protection perspective.

1.3.8 Freedom of Information Acts 1997, 2003 & 2014

Any reports which are made to Tusla may be subject to the provisions of the Freedom of Information Acts, which enable members of the public to obtain access to personal information relating to them which is in the possession of public bodies. However, the Freedom of Information Acts also provide that public bodies may refuse access to information obtained by them in confidence.

The exemptions and exclusions which are relevant to child protection include the following:

(a) protecting records covered by legal professional privilege;
(b) protecting records which would facilitate the commission of a crime;
(c) protecting records which would reveal a confidential source of information.

A board of management established under section 14 of the Education Act, 1998 other than a board of management of a school established or maintained by an Education and Training Board, is currently exempt from the Freedom of Information Acts.

However, boards of management should note that records forwarded to a public body by a school and held by that body may be subject to the provisions of the Freedom of Information Acts.

1.3.9 The Data Protection Acts, 1998 and 2003

The Data Protection Acts are designed to protect the rights of individuals with regard to personal data. The law defines personal data as "data relating to a living individual who is or can be identified from the data or from the data in conjunction with other information that is in, or is likely to come into, possession of the data controller".

The Acts give a right to every individual, irrespective of nationality or residence, to establish the existence of personal data, to have access to any such data relating to him or her and to have inaccurate data rectified or erased. It requires data controllers to make sure that the data they keep are collected fairly, are accurate and up-to-date, are kept for lawful purposes, and are not used or disclosed in any manner incompatible with those purposes. It also requires both data controllers and data processors to protect the

data they keep, and imposes on them a special duty of care in relation to the individuals about whom they keep such data.

Schools should be aware that the EU General Data Protection Regulation (GDPR) will come into force on the 25th May 2018, replacing the existing data protection framework.

1.3.10 Qualified Privilege

While the legal protection outlined in the Protections for Persons Reporting Child Abuse Act, 1998 only applies to reports made to designated officers of Tusla or of the HSE and any member of An Garda Síochána, this legislation has not altered the situation in relation to common law qualified privilege. Consequently, should a member of a board of management or a member of school personnel furnish information with regard to suspicions of child abuse or neglect to the DLP of the school, or to the school authority, such communication would be regarded under common law as having qualified privilege.

Qualified privilege arises where the person making the communication has a duty to do so, or a right, or interest to protect the child and where the communication is made to a person with a similar duty, right or interest. The person making the report, acting in loco parentis, would be expected to act in the child's best interests and in making the report would be regarded as acting in such a manner. Privilege can be displaced only where it can be established that the person making the report acted maliciously.

Furthermore, those reporting a child's disclosure or concerns about a child's behaviour or welfare are not regarded as making an allegation as a matter of charge, but simply carrying out their duty in good faith. They are not accusing or bringing a charge.

1.3.11 Confidentiality

All information regarding concerns of possible child abuse or neglect should be shared only on a "need to know" basis in the interests of the child. The test is whether or not the person has any legitimate involvement or role in dealing with the issue. The assurance of confidentiality should not be given to a third party who imparts information.

However, giving information to those who need to have that information, for the protection of a child who may have been, is being, or is at risk of being abused or neglected is not a breach of confidentiality.

As part of its oversight and quality assurance role in monitoring the implementation of these guidelines, inspectors of the Department may require access to individual files. A school is required to cooperate fully with the Inspectorate and provide such access.

Children First National Guidance 2017 states that it is good practice to inform the parent/carer that a report is being made and the reasons for the decision to make the report. However Children First National Guidance 2017 provides that it is not necessary to inform a parent/carer that a report is being made -

(a) if by doing so, the child will be placed at further risk **or**
(b) in cases where the family's knowledge of the report could impair Tusla's ability to carry out a risk assessment **or**
(c) if the reporter is of the reasonable opinion that by doing so it may place the reporter at risk of harm from the family.

Where there is any doubt as to whether to inform a parent/carer that a report is being made concerning his or her child the advice of Tusla shall be sought. Sections 5.3.6 and section 5.3.7 of these procedures sets out the procedures for informing a parent/carer including seeking the advice of Tusla.

It is not the responsibility of school personnel to assess or investigate or to make enquiries of parents/carers, and in some cases it could be counter-productive for them to do so. It is a matter for Tusla to assess and investigate suspected abuse and neglect and determine what action it shall take.

In cases where school personnel have a concern about a child, but are not sure whether to report the matter to Tusla, the designated liaison person shall seek advice from Tusla.

In cases of emergency, where a child appears to be at immediate and serious risk, and it is not possible to make contact with Tusla, An Garda Síochána shall be contacted immediately. This may be done at any Garda Station. **Under no circumstances should a child be left in a dangerous situation pending Tusla intervention.**

1.4 Vulnerable Adults

The Children First Act, 2015 and Children First National Guidance 2017 and these procedures apply to children. It is recognised that some schools may also cater for adult pupils with additional vulnerabilities. Where a vulnerable adult may have been, is being, or is at risk of being abused or neglected the advice of the HSE, or if necessary, An Garda Síochána should be sought. Further information in relation to the safeguarding of vulnerable adults is available on the website of the HSE www.hse.ie

Chapter 2: Definition and Recognition of Child Abuse

2.1 Purpose

This chapter applies to all school personnel who come in contact with children. Everyone must be alert to the possibility that children with whom they are in contact may be experiencing abuse or neglect. This chapter contains guidance (based on chapter 2 of Children First National Guidance 2017) on the four main types of abuse and how abuse and neglect can be recognised.

2.2 Reasonable grounds for concern

The Children First National Guidance 2017 requires that Tusla should always be informed where a person has reasonable grounds for concern that a child may have been, is being, or is at risk of being abused or neglected. If the symptoms of abuse are ignored, it could result in ongoing harm to the child. It is not necessary for a person to prove that abuse has occurred to report a concern to Tusla. All that is required is that the person has reasonable grounds for concern. It is Tusla's role to assess concerns that are reported to it. Where a concern is reported, the information will be carefully considered with any other information available and a child protection assessment will be carried out where sufficient risk is identified.

Reasonable grounds for a child protection or welfare concern include:

- Evidence (e.g. 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

2.3 Types of Child Abuse and how they might be recognised

In Children First National Guidance 2017 and in these procedures, "a child" means a person under the age of 18 years, excluding a person who is or has been married.

All school personnel should be familiar with signs and behaviours that may be indicative of child abuse.

This chapter describes the four main types of abuse: neglect, emotional abuse, physical abuse and sexual abuse and outlines how abuse and neglect can be recognised. 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 a 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, it should be considered a child welfare and protection issue for both children and child protection procedures should be adhered to for both the alleged victim and the alleged abuser.

Children First National Guidance 2017 states that the important factor in determining whether the behaviour is abuse or neglect is the impact of that behaviour on the child rather than the intention of the parent/carer/other person.

The definitions of neglect and abuse presented in this chapter are not legal definitions. They are intended to describe ways in which a child might experience abuse and how this abuse may be recognised.

The procedures for reporting child abuse or neglect can be found in chapter 5 of these procedures. **If it is considered that a child is in immediate danger and Tusla cannot be contacted, An Garda Síochána should be contacted without delay.**

2.3.1 Neglect

Children First National Guidance 2017 outlines that 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 wellbeing 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, supervision and safety. Emotional neglect may also lead to the child having difficulties of attachment. 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 the child is seen 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 stimulation
- 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

2.3.2 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 the 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 is made contingent on his or her behaviours or actions
- Extreme over-protectiveness
- 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 or 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 in 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.

2.3.3 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
- Female genital mutilation

The Children First Act, 2015 includes a provision that abolishes the common law defence of reasonable chastisement in court proceedings. This defence could previously be invoked by a parent or other person in authority who physically disciplined a child. The change in the legislation now means that in prosecutions relating to assault or physical cruelty, a person who administers such punishment to a child cannot rely on the defence of reasonable chastisement in the legal proceedings.

Since 1982 corporal punishment has been banned in schools.

2.3.4 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 many 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.

It should be remembered that sexual activity involving a young person may be sexual abuse even if the young person concerned does not themselves recognise it as abusive.

Examples of child sexual abuse include the following:

- Any sexual act intentionally performed in the presence of the 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. Details on the exemptions for mandated reporting of certain underage sexual activity can be found in section 4.7.1 of these procedures.

Where a school becomes aware of underage sexual intercourse the school should take appropriate steps to inform the child's parents.

2.3.5 Circumstances which may make children more vulnerable to abuse and neglect

School personnel dealing with children need to be alert to the possibility that a welfare or protection concern may arise in relation to children with whom they come in contact. A child needs to have someone they can trust in order to feel able to disclose abuse they may be experiencing. They need to know that they will be believed and that they will get the help they need. Without these things, they may be vulnerable to continuing abuse.

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 abuse.

The following list is intended to assist in identifying the range of issues in a child's life that may place them at greater risk of abuse or neglect. It is important 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
- Young carer

- **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 concerns

- **Poor motivation and poor 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

These factors should be considered 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.

If it is considered that a child is in immediate danger and Tusla cannot be contacted, An Garda Síochána should be contacted without delay.

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.

Children First National Guidance 2017 outlines that bullying can be defined as repeated aggression – whether it be verbal, psychological or physical – that is conducted by an individual or group against others. Children First National Guidance 2017 describes bullying as 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, cyber bullying, damage to property, intimidation, isolation/exclusion, name calling, malicious gossip and extortion. Bullying can also take the form of identify abuse based on gender, 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; those 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 amongst 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. Research suggests that children with disabilities and with special educational needs are more likely to be bullied than others. Homophobic and transphobic bullying (bullying targeted at those who are or who are perceived to be LGBT) has also been found to be prevalent with evidence that such pupils have particular difficulty in speaking up or reporting the bullying behaviour.

Children First National Guidance 2017 states that bullying in schools can be 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 school authorities are responsible for dealing with school based bullying behaviour. School authorities are required to have a code of behaviour and an anti-bullying policy in place in accordance with the Department's "Anti-Bullying Procedures for Primary and Post-Primary Schools" (the Anti-Bullying Procedures) and Circular 0045/2013.

The Anti-Bullying Procedures define bullying as "unwanted negative behaviour, verbal, psychological or physical conducted by an individual or group against another person (or persons) and which is repeated over time". In the context of the Anti-Bullying Procedures "placing a once-off offensive or hurtful public message, image or

statement on a social network site or other public forum where that message, image or statement can be viewed and/or repeated by other people" is also regarded as bullying behaviour.

School personnel should be aware of their school's anti-bullying policy and the procedures to be followed in relation to any alleged bullying incidents.

Children First National Guidance 2017 and the Anti-Bullying Procedures provide that in cases of serious instances of bullying where the behaviour is regarded as possibly abusive, a referral may need to be made to Tusla or An Garda Síochána as appropriate. Where school personnel have concerns about a child arising from alleged bullying behaviour but are not sure whether to report the matter to Tusla, the designated liaison person shall seek advice from Tusla in accordance with the procedures set out in chapter 5 of these procedures.

2.3.6 Concerns in relation to an adult who may pose a risk to children

Children First National Guidance 2017 states that while in most cases concerns for the welfare or safety of a child develop from one's own observation or knowledge of a particular child or his or her family, sometimes concerns arise in relation to whether an adult may pose a risk to children, even if there is no specific child named in relation to the concern. For example, on the basis of known or suspected past behaviour, a concern could exist about the risk an individual may pose to children with whom he or she may have contact. Any such reasonable concerns should be reported to Tusla, who will try to establish whether or not any child is currently at risk from the individual in question. Where school personnel have concerns as to whether an adult may pose a risk to children, even if there is no specific child named in relation to the concern but are not sure whether to report the matter to Tusla, the designated liaison person shall seek advice from Tusla in accordance with the procedures set out in chapter 5.

Children First National Guidance 2017 states that while Tusla will make every effort to examine such cases, it is a very complex area involving the accused's constitutional rights to their good name, privacy and the right to earn a living, as well as the requirements of natural justice. Tusla must work within the Constitution, the law, the legal system and the demands of natural justice to balance the conflicting rights of those involved. This may limit how much feedback Tusla can provide to the person who reported the concern on the progress or outcome of the case. Tusla's examination can be greatly improved if the alleged victim feels able to co-operate with Tusla in its assessment or investigation.

Chapter 3: Responsibilities of all School Personnel

3.1 Responsibilities of all School Personnel

3.1.1 School personnel are especially well placed to observe changes in children's behaviour, their lack of development or outward signs of abuse. In any situation where a member of school personnel (including a registered teacher), receives an allegation or has a suspicion that a child may have been abused or neglected, is being abused or neglected, or is at risk of abuse or neglect, he or she shall, without delay, report the matter to the designated liaison person (DLP) in accordance with the procedures outlined in chapter 5 of these procedures.

3.1.2 Where a registered teacher has any such concern, in addition to reporting it to the DLP, he or she must also consider whether the concern is at or above the threshold at which the teacher must make a mandated report to Tusla. Chapter 4 of these procedures includes further information on the threshold at which a mandated report must be made and chapter 5 sets out the reporting procedures to be followed by the DLP and teacher concerned. In that regard, the registered teacher shall liaise with the DLP and follow the procedures set out in section 5.2 of these procedures.

3.2 Recognition of possible signs of abuse

3.2.1 Chapter 2 of these procedures provides information (based on chapter 2 of Children First National Guidance 2017) on the four main types of abuse and how abuse and neglect can be recognised. All school personnel shall familiarise themselves with this information to enable them to meet their reporting obligations under these procedures. It is important that all school personnel consult chapter 2 of these procedures and liaise with the DLP where they have a concern that a child may have been abused or neglected, is being abused or neglected, or is at risk of abuse or neglect. The DLP shall make Children First National guidance 2017 accessible to school personnel. The Children First National Guidance 2017 document is available on www.dcya.gov.ie.

3.2.2 The Children First National Guidance 2017 requires that Tusla should always be informed where a person has reasonable grounds for concern that a child may have been, is being, or is at risk of being abused or neglected.

3.2.3 Children First National Guidance 2017 states that the guiding principles in regard to reporting child abuse or neglect to Tusla may be summarised as follows:

(a) the safety and well-being of the child must take priority over concerns about adults against whom an allegation may be made and;

(b) where there are reasonable grounds for concern, reports should be made without delay to Tusla.

Any reasonable grounds for concern must elicit a response. Ignoring what may be symptoms of abuse could result in ongoing harm to the child.

3.3 Dealing with disclosures from children

3.3.1 An abused child is likely to be under severe emotional stress and a member of school personnel may be the only adult whom the child is prepared to trust. Great care shall be taken not to damage that trust.

3.3.2 When information is offered in confidence, the member of school personnel will need tact and sensitivity in responding to the disclosure. The member of school personnel will need to reassure the child, and endeavour to retain his or her trust, while explaining the need for action which will necessarily involve other adults being informed. It is important to tell the child that everything possible will be done to protect and support him or her, but not to make promises that cannot be kept e.g. promising not to tell anyone else.

3.3.3 It is important to deal with any allegation of abuse or neglect in a sensitive and competent way through listening to and facilitating the child to tell about the problem, **rather than interviewing the child about details of what happened**.

Disclosures of abuse must be dealt with sensitively and professionally. The following approach is suggested as best practice for dealing with these disclosures:

- React calmly
- Listen carefully and attentively
- Take the child seriously
- Reassure the child that they have taken the right action in talking to you
- Do not promise to keep anything secret
- Ask questions for clarification only. Do not ask leading questions
- Check back with the child that what you have heard is correct and understood
- Do not express any opinions about the alleged abuser
- Ensure that the child understands the procedures that will follow
- Make a written record of the conversation as soon as possible, in as much detail as possible
- Treat the information confidentially, subject to the requirements of the Children First National Guidance 2017 and relevant legislation

The duty of the recipient of such information is to follow the reporting requirements outlined in chapter 5 of these procedures. **It must always be remembered that school personnel have a supportive, not an investigative role**.

Tusla intends to publish a "Child Safeguarding: A guide for Policy, Procedures and Practice" document which will include guidance in relation to responding to a child who discloses abuse.

3.4 Record Keeping

3.4.1 When child abuse or neglect is suspected, it is essential to have a written record of all the information available. School personnel shall note carefully what they have observed and when they observed it. Signs of physical injury shall be described in detail and, if appropriate, sketched.

3.4.2 Any comment by the child concerned, or by any other person, about how an injury occurred shall be recorded, preferably quoting words actually used, as soon as possible after the comment has been made. The record of the discussion shall be signed, dated and given to the DLP who shall retain it.

3.4.3 The DLP shall record all concerns or allegations of child abuse brought to his or her attention, and the actions taken following receipt of a concern or allegation of child abuse.

3.4.4 The DLP shall retain a copy of every report submitted by him or her to Tusla and shall keep a record of any further actions to be taken by the DLP and of any further communications with Tusla, An Garda Síochána or other parties in relation to that report.

3.4.5 All records created shall be regarded as highly confidential and placed in a secure location (note section 1.3.9 of these procedures regarding data protection requirements).

3.4.6 To allow for the effective recording and tracking of relevant records and actions, all child protection case files and any parties referenced in such files shall be assigned a unique code or serial number by the DLP. In this context "parties" means any party whose identity, if disclosed, might lead to the identification of a child or a person against whom an allegation has been made.

3.4.7 All school personnel should be aware that section 17 of the Children First Act, 2015 makes it an offence for a person to disclose information to a third party which has been shared by Tusla during the course of an assessment arising from a mandated report, save in accordance with law, or unless Tusla has given that person written authorisation to do so. Failure to comply with this section of the Act is an offence liable to a fine or imprisonment for up to six months or both.

3.4.8 Appendix 4 contains a summary of these procedures' main record keeping requirements.

3.5 Designated Liaison Person and Deputy Designated Liaison Person

3.5.1 It is the responsibility of all boards of management to designate a senior full-time member of the **registered teaching staff** of the school as the designated liaison person (DLP) for the school.

3.5.2 It is expected that the DLP will normally be the principal. Where the board of management appoints a DLP who is not the principal, the school authority should put in place arrangements to ensure that the DLP will keep the principal appropriately informed of child protection matters.

3.5.3 It is also the responsibility of the board of management to designate another member of the full time **registered teaching staff** of the school (to be known as the deputy DLP) to assume the responsibilities of the DLP, in the absence of the DLP. It is expected that, where possible, the deputy DLP will normally be a deputy principal of the school See section 3.5.11 below in relation to one teacher schools.

3.5.4 The board of management shall ensure that arrangements are in place to enable the deputy DLP to effectively assume his or her responsibilities in the absence of the DLP and to ensure that the deputy DLP can access relevant records when required.

3.5.5 The role of the DLP is to act as the resource person to any member of school personnel who has a child protection concern. The DLP should be knowledgeable about child protection and should be provided with any training considered necessary to fulfil this role. However, in cases where there are concerns about a child and the DLP is not sure whether to report the matter to Tusla or whether a report should be submitted as a mandated report, the DLP shall seek advice from Tusla as outlined in chapter 5 of these procedures.

3.5.6 The DLP is responsible for ensuring that the reporting requirements outlined in chapter 5 of these procedures are followed correctly and promptly.

3.5.7 The specific actions to be taken by the DLP in relation to any concerns about a child including those in respect of joint mandated reporting with registered teachers, are detailed in chapter 5 of these procedures.

3.5.8 These procedures also require that the DLP shall be appointed as the "relevant person" under section 11 of the Children First Act, 2015 for the purposes of being the first point of contact in respect of the school's Child Safeguarding Statement.

3.5.9 The names of the DLP and the deputy DLP shall be recorded in the Child Safeguarding Statement. The name of the DLP shall be displayed in a prominent position near the main entrance to the school.

3.5.10 The DLP will be the designated liaison person for the school in dealing with Tusla, An Garda Síochána and other parties, in connection with allegations of and/or concerns about child abuse and neglect. Those other parties shall be advised by the DLP that they shall conduct all matters pertaining to the processing or assessment/investigation of alleged child abuse through the DLP. Where the matter concerns a member of school personnel such matters shall be conducted through the employer.

3.5.11 There is no requirement to appoint a deputy DLP in the case of a one teacher school where there is no other full time member of teaching staff to whom this role can be assigned. In such schools, in any case where the principal is absent, the substitute employed to replace the principal shall assume the relevant duties relating to the role of the DLP. It is the responsibility of the school employer, to ensure that any substitute employed in such circumstances is made fully aware of the duties associated with the DLP role and that he or she can effectively assume the responsibilities involved.

3.6 Principal's child protection oversight report to the board of management

At each board of management meeting, the principal's report to the board of management shall include a Child Protection Oversight Report containing information under 4 headings as follows-

(1) Allegations of abuse made against members of school personnel

(2) Other child protection concerns in respect of pupils in the school (i.e. concerns that do not involve any allegation of abuse against a member of school personnel)

(3) Child protection concerns arising from alleged bullying behaviour amongst pupils and

(4) Summary data in respect of reporting.

Details of the information to be provided under each of the above headings is set in sections 9.5 to 9.8 of these procedures.

Chapter 4: Statutory obligations on Registered Teachers

4.1 Purpose

4.1.1 The Children First Act, 2015 has placed a statutory obligation on specific people to report child protection concerns that are at or above a threshold of harm (as defined in that Act) to Tusla. Such persons are referred to as "mandated persons" under the Act. All teachers who are registered with the Teaching Council are mandated persons under the Children First Act, 2015.

4.1.2 This chapter applies to all registered teachers working in schools, including the DLP and the deputy DLP. It outlines the statutory obligations that now apply to all registered teachers under the Children First Act, 2015.

4.2 Specific responsibilities of registered teachers

4.2.1 In accordance with the best practice (non-statutory) requirement of the Children First National Guidance 2017, these procedures continue the previous requirement that any member of school personnel including a registered teacher who receives an allegation or has a suspicion that a child may have been, is being, or is at risk of being abused or neglected, is still required to report the matter, without delay, to the DLP in the school.

Every registered teacher, as a mandated person, now also has a statutory obligation to make his or her own mandated report to Tusla where the concern about the child is at or above a threshold of harm as defined in the Act. Therefore in addition to reporting his or her concern to the DLP, a registered teacher must also consider whether or not the concern is at or above the defined threshold of harm at which the registered teacher has his or her own statutory obligation under the Children First Act, 2015 to submit a mandated report to Tusla.

Chapter 5 of these procedures requires that the registered teacher shall liaise with the DLP in relation to determining if the concern in question is at or above the defined threshold of harm at which the registered teacher must submit a mandated report. Chapter 5 also requires that the registered teacher shall follow the relevant reporting procedures set out in section 5.2, including, where applicable, those requiring the registered teacher to submit a mandated report jointly with the DLP.

4.2.2 Important note for registered teacher:

> Every registered teacher should note that as a mandated person the statutory obligation under the Children First Act 2015 to make a mandated report to Tusla rests with the individual teacher and this applies regardless of whether or not the DLP reports the concern in question. However a registered teacher who makes a mandated report to Tusla jointly with the DLP meets his or her statutory obligation to report to Tusla under the Children First Act 2015.

This chapter contains information (based on chapter 3 of Children First National Guidance 2017) for registered teachers and DLPs on their statutory obligations under the Children First Act, 2015 and on the threshold of harm at which a concern must be reported as a mandated report under that Act.

4.2.3 Registered teachers as mandated persons have two main statutory obligations under the Children First Act, 2015 and they are;

(a) to report any knowledge, belief or reasonable grounds to suspect that a child has been harmed, is being harmed or is at risk of being harmed to Tusla, and
(b) to assist Tusla in assessing a concern which has been the subject of a mandated report, if requested by Tusla in accordance with the Act.

4.2.4 Certain provisions of the Children First Act, 2015 that are relevant to the reporting obligations of mandated persons are set out below:

> Section 14(1) of the Children First Act, 2015 states that:
>
> *"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. It states that:

"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 that 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."

In accordance with section 2 of the Children First Act, 2015 the defined threshold of "harm" in relation to a child is 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,

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

"ill-treatment" means, in relation to a child, to abandon or cruelly treat the child,
or to cause or procure or allow the child to be abandoned or cruelly treated;

"neglect" means, in relation to a child, to deprive the child of adequate food, warmth, clothing, hygiene, supervision, safety or medical care;

"welfare" includes, in relation to a child, the moral, intellectual, physical, emotional and social welfare of the child."

4.3 Criteria for mandated reporting: threshold of harm

4.3.1 Under the Children First Act, 2015 registered teachers as mandated persons are required to report to Tusla any knowledge, belief or reasonable grounds to suspect 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 four types of abuse are described in chapter 2 of these procedures. The threshold of harm for each category of abuse at which registered teachers as mandated persons have a statutory obligation to report concerns is set out in chapter 3 of Children First National Guidance 2017, and is outlined below.

4.3.2 Neglect

Neglect is defined as "to deprive the child of adequate food, warmth, clothing, hygiene, supervision, safety or medical care". The threshold of harm, at which a registered teacher as a mandated person has a statutory obligation to report to Tusla under the Children First Act, 2015 is reached when he or she knows, believes or has 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.**

4.3.3 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 a registered teacher as a mandated person has a statutory obligation to report to Tusla under the Children First Act, 2015 is reached when he or she knows**,** believe~~s~~ or has 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.**

4.3.4 Physical Abuse

Physical abuse is covered in the references to assault in the Children First Act, 2015. The threshold of harm**,** at which a registered teacher as a mandated person has a statutory obligation to report to Tusla under the Children First Act, 2015 is reached when he or she knows, believes or has 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.**

4.3.5 Sexual Abuse

A registered teacher as a mandated person who knows, believes or has reasonable grounds to suspect that a child has been, is being, or is at risk of being sexually abused has a statutory obligation to report this to Tusla under the Children First Act, 2015. Such reports shall be made in accordance with the reporting requirements outlined in chapter 5 of these procedures.

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.

A full list of relevant offences against the child which are considered sexual abuse is set out at Appendix 3 of the Children First National Guidance 2017 and in appendix 2 to these procedures.

> **Important note**: As all sexual abuse falls within the category of seriously affecting a child's health welfare or development, all concerns about sexual abuse must be submitted as a mandated report to Tusla. There is one exception which deals with certain sexual activity between older teenagers which is outlined in section 4.7 of these procedures.

4.4 Disclosures of abuse from a child or young person

4.4.1 Children First National Guidance 2017 outlines that mandated persons who receive a disclosure of harm from a child, which is at or above the threshold of harm (see section 4.3 of these procedures) must make a mandated report of the concern to Tusla. Children First National Guidance 2017 states that mandated persons are not required to judge the truth of the claims or the credibility of the child. If the concern does not meet the threshold to be reported as a mandated concern but it constitutes reasonable grounds for concern (as described in chapter 2 of these procedures) the concern shall be reported to Tusla in accordance with reporting requirements in chapter 5 of these procedures.

4.4.2 Children First National Guidance 2017 outlines that a mandated person who receives a disclosure of harm from a child may feel reluctant to report this for a number of reasons. For example, the child may say that they do not want the disclosure to be reported or the mandated person may take the view that the child is now safe and that the involvement of Tusla may not be desired by either the child or their family. However, mandated persons should be aware that under the Children First Act, 2015, they have a statutory obligation to report such concerns (as mandated reports) to Tusla. Furthermore, Tusla needs to be informed of all risks to children, as the removal of a risk to one child does not necessarily mean that there are no other children at risk. The information contained in a disclosure may be critical to Tusla's assessment of risk to another child either now or in the future.

Disclosures of abuse from a child must be dealt with sensitively and professionally and the approach outlined in section 3.3.3 of these procedures is suggested as best practice for dealing with these disclosures.

4.5 Mandated persons who work with adults

4.5.1 Children First National Guidance 2017 outlines that professionals who work with or treat persons with mental health, intellectual disability, addiction or domestic violence issues or professionals who work in the probation services must consider the welfare and safety of any children in that person's family and/or children in regular contact with the person. Such professionals may find themselves working with people whose health and behaviour has harmed or may harm a child. Where a registered teacher has any such concern about a person, it should be reported in accordance with the reporting requirements outlined in chapter 5 of these procedures and where applicable in accordance with the mandated reporting procedures in section 5.2 of these procedures.

4.6 Dealing with a retrospective allegation

4.6.1 Children First National Guidance 2017 outlines that some adults may disclose abuse that took place during their childhood. Such disclosures may come to light when an adult attends counselling, or is being treated for a psychiatric or health problem. For example, where a counsellor or health professional, receives a disclosure from a client that they were abused as a child, the counsellor or health professional concerned should report this information to Tusla, as the alleged abuser may pose a current risk to children.

4.6.2 In the case of any mandated person who provides counselling, Children First National Guidance 2017 recommends that he or she lets clients know, before the counselling starts, that if any child protection issues arise and the alleged perpetrator is identifiable, the information must be passed on to Tusla. If the client does not feel able to participate in any investigation, Tusla may be seriously constrained in their ability to respond to the retrospective allegation.

4.6.3 The statutory reporting obligations under the Children First Act, 2015 apply only to information that a mandated person, received or became aware of on or after 11 December 2017, whether the harm occurred before or after that point. However, any reasonable grounds for concern about past abuse, where the information came to attention before the Act came into force, should be reported in accordance with the best practice (non-statutory) procedures outlined in chapter 5.

4.7 Exceptions from the obligation to make a mandated report

4.7.1 Certain Underage Sexual Activity

Under the Criminal Law (Sexual Offences) Act, 2006 the legal age of consent is 17 years. A sexual relationship where one or both parties is under 17 years of age is illegal. However, a mandated person is exempted from making a mandated report to Tusla in relation to underage sexual activity where certain specified criteria are met. Section 14 (3) of the Children First Act, 2015 sets out this exemption from reporting underage sexual activity. It provides that if a mandated person is satisfied that **all** of the following criteria are met then a report to Tusla is not required:

- The child concerned is aged between 15 and 17 years old
- The age difference between him or her and the other party to the sexual activity is not more than 24 months
- There is no material difference in capacity or maturity between the parties engaged in the sexual activity concerned
- The relationship between the parties engaged in the sexual activity concerned is not intimidatory or exploitative of either party **and**
- The child concerned makes known to the mandated person that he or she does not want any information about the activity to be disclosed to Tusla

In effect this means that if **all** of the above criteria are met, mandated persons do not have a statutory obligation to make a mandated report to Tusla in respect of sexual activity between such older children. However, it should be noted that the above exemption does not apply 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 the mandated person. In addition all persons, including mandated persons, must uphold the key principle that the welfare of the child is paramount and if a mandated person has any concerns, even where all the above criteria are met, a report can still be made to Tusla. In such cases, the reporting procedures in chapter 5 shall be followed.

4.7.2 Concerns developed outside of professional duties

Children First National Guidance 2017 outlines that the statutory obligation to make a mandated report under the Act applies only to information that a mandated person acquires in the course of his or her employment or profession as such a mandated person. It does not apply to information acquired outside of his or her work, or information given to him or her on the basis of a personal rather than a professional relationship.

Children First National Guidance 2017 outlines that while the statutory obligation to report only applies in respect of concerns arising from a mandated person's employment or profession as such a mandated person, a mandated person should comply with the best practice (non-statutory) requirement of the Children First National Guidance 2017 to report all reasonable grounds for concern to Tusla regardless of where or how they arise.

It is important that all registered teachers familiarise themselves with their statutory obligations under the Children First Act, 2015 and with the guidance contained in this chapter.

4.8 Consequences of non-reporting

While the Children First Act, 2015 does not impose criminal sanctions on mandated persons who fail to make a report to Tusla, Children First National Guidance 2017 outlines that there are possible consequences for mandated persons who fail to report. In the case of registered teachers, there are a number of administrative actions that Tusla could take, if after an investigation, it emerges that a mandated report was not made by a registered teacher and a child was subsequently left at risk or harmed.

In that regard, Children First National Guidance 2017 provides that Tusla may:

(a) make a complaint about the registered teacher under the Fitness to Teach provisions of the Teaching Council Acts 2001 to 2015.
(b) pass information regarding the failure to make a report to the National Vetting Bureau of An Garda Síochána. This information could potentially be disclosed to current or future employers when the registered teacher is next Garda vetted.

4.9 Mandated assisting

4.9.1 Section 16 of the Children First Act, 2015 provides that Tusla may request a mandated person to provide any necessary and proportionate information and assistance to aid Tusla in assessing the risk to a child arising from a mandated report. The Act places a statutory obligation on all mandated persons to comply, as soon as practicable, with a request made by Tusla in accordance with section 16 of the Act. A mandated person must comply with this request, regardless of who made the mandated report.

4.9.2 Children First National Guidance 2017 outlines that Tusla accepts the time limitations and pressures on other professionals and will use mandated assisting only when necessary and only to the extent needed by each specific case. Mandated assistance may include a request to supply further information over the phone, produce a verbal or written report or attend a meeting. Further information about mandated assistance, including Tusla's protocol for requesting such assistance, can be found on Tusla's website www.tusla.ie.

4.10 Sharing information and the offence of unauthorised disclosure

4.10.1 The Data Protection Acts 1988 and 2003 do not prevent the sharing of information on a reasonable and proportionate basis for the purposes of child protection. Tusla has the authority to share information concerning a child who is the subject of a risk assessment with a mandated person who has been asked to provide assistance. Tusla must only share what is necessary and proportionate in the circumstances of each individual case.

4.10.2 Information that Tusla shares with a registered teacher, including a DLP, where that teacher is assisting Tusla to carry out an assessment, must not be shared by the registered teacher with a third party, unless Tusla considers it appropriate and authorises in writing that the information may be shared. This is in keeping with the principles of data protection which recognise that in certain circumstances information can be shared in the interests of child protection, but that such sharing must be necessary and proportionate.

4.10.3 Section 17 of the Children First Act, 2015 makes it an offence for a person to disclose information to a third party which has been shared by Tusla during the course of an assessment arising from a mandated report, save in accordance with law, or unless Tusla has given that person written authorisation to do so. Failure to comply with this section of the Act is an offence liable to a fine or imprisonment for up to six months or both.

4.10.4 Section 16(3) of the Children First Act, 2015 provides that a mandated person, including a registered teacher who shares information with Tusla pursuant to a mandated assistance request made by Tusla in accordance with section 16 of the Act, is protected from civil liability in relation to the sharing of that information with Tusla.

Section 16 (3) of the Children First Act, 2015 states:

'If a mandated person furnishes any information (including a report) document or thing to the Agency pursuant to a request made under subsection (1), the furnishing of that information, document or thing shall not give rise to any civil liability in contract, tort or otherwise and nor shall the information, document or thing be admissible as evidence against that person in any civil or criminal proceedings.'

Chapter 5: Reporting of Concerns

5.1 Action to be taken by all school personnel (teaching and non-teaching)

5.1.1 If any member of school personnel, including a registered teacher, receives an allegation or has a suspicion that a child may have been abused or neglected, is being abused or neglected, or is at risk of abuse or neglect (as described in chapter 2 of these procedures) he or she shall, without delay, report the matter to the DLP in the school, who is responsible for ensuring that the reporting procedures in this chapter are followed. In addition registered teachers, as mandated persons, are required to follow the procedures at section 5.2 of this chapter.

The DLP shall make a written record of any concern brought to his or her attention by a member of school personnel and shall place this record in a secure location. All school personnel must have due regard to the need for confidentiality at all times, as previously referred to in section 1.3.11 of these procedures. The supports of the school shall continue to be made available to the child(ren) concerned.

5.1.2 Where the allegation or concern relates to the DLP, the member of school personnel shall, without delay, report the matter to the Chairperson of the board of management or, in schools where the ETB is the employer, to the Chief Executive of the ETB concerned. In such cases, the Chairperson or Chief Executive, as appropriate, shall assume the role normally undertaken by the DLP and shall follow the reporting procedures set out in section 5.3 of this chapter for dealing with the allegation or concern. In addition, the relevant guidance and procedures regarding allegations of abuse made against school personnel outlined in chapter 7 of these procedures shall also be followed.

5.1.3 School personnel should also be aware of the reporting requirements of the Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act, 2012. Further information is available at section 1.3.6 of these procedures.

5.2 Action to be taken where a registered teacher has a concern

5.2.1 This section sets out the reporting procedures to be followed by both the DLP and registered teacher where a registered teacher has a concern that a child may have been, is being or is at risk of being abused or neglected.

5.2.2 Where a registered teacher receives an allegation or has a suspicion that a child may have been abused or neglected, is being abused or neglected, or is at risk of abuse or neglect (as described in chapter 2 of these procedures) he or she shall, without delay, report the matter to the DLP.

5.2.3 Firstly, the DLP and the registered teacher must consider whether there are reasonable grounds for concern (as described in chapter 2 of these procedures) about the welfare and protection of the child.

5.2.4 If the DLP and the registered teacher both agree that there are reasonable grounds for concern they shall then jointly consider whether the concern in question is at or above the defined threshold of harm (as set out in chapter 4 of these procedures) at which a report must be submitted as a mandated report to Tusla.

5.2.5 If the DLP and the registered teacher both agree that the concern is at or above the defined threshold of harm at which a mandated report must be made, the concern shall, as soon as practicable, be submitted as a mandated report to Tusla jointly by the DLP and the registered teacher concerned using the Tusla report form. The Tusla report form which is available on the Tusla website www.tusla.ie shall be completed as comprehensively as possible and indicate, in the manner required that it is a mandated report under the Children First Act, 2015.

5.2.6 Where the DLP is unsure whether to report a concern to Tusla or whether a report should be submitted as a mandated report, the DLP shall seek advice from Tusla. It should be noted that Children First National Guidance 2017 sets out that Tusla can provide advice in this regard. In consulting Tusla, the DLP shall follow the procedures set out at section 5.3.3 of these procedures. The DLP shall inform the registered teacher concerned that such advice is being sought and shall, when received, inform the registered teacher of the advice provided.

5.2.7 Where Tusla advises that a mandated report should be made, the DLP and the registered teacher concerned shall act on that advice and a mandated report shall, as soon as practicable, be submitted to Tusla jointly by the DLP and the registered teacher concerned in accordance with section 5.2.5 of these procedures.

5.2.8 In any case (including where the DLP has sought and considered the advice of Tusla) where the DLP and the registered teacher are both satisfied that the concern is not at or above the defined threshold of harm for a mandated report but both consider that it constitutes reasonable grounds for concern (as described in chapter 2 of these procedures) the DLP shall as soon as practicable, report the concern to Tusla in accordance with section 5.4 of these procedures. In such cases (i.e. where the registered teacher is satisfied that the concern is not at or above the defined threshold of harm for a mandated report) the teacher is not required to submit a report to Tusla.

5.2.9 In any case (including where the DLP has sought and considered the advice of Tusla) where either the DLP or the registered teacher, has any remaining-doubt as to whether the concern is at or above the defined threshold of harm for a mandated report, the DLP or the registered teacher (or both where applicable) shall submit the report to Tusla as a mandated report in accordance with the reporting procedures set out in section 5.4. Where applicable, the mandated report shall be submitted to Tusla jointly by the registered teacher and DLP in accordance with section 5.2.5 of these procedures.

5.2.10 Where the DLP has decided not to report to Tusla or has decided not to submit the report as a mandated report to Tusla, the DLP shall advise the registered teacher that it still remains open to that teacher to seek advice from Tusla and to report his or her concern, or to report that concern as a mandated report to Tulsa where he or she still considers that such a report is warranted. In accordance with section 5.3.8 where the DLP has decided not to report to Tusla the DLP shall give the registered teacher a clear statement in writing as to the reasons why action is not being taken and a copy of that statement shall be retained by the DLP. If, in such circumstances, the registered teacher decides to report the concern to Tusla or to report the concern as a mandated report to Tulsa, he or she shall use the Tusla Report Form which is available on the Tusla website www.tusla.ie and shall also provide a copy of that report to the DLP. Where that report concerns a member of school personnel, the DLP shall inform the employer (the board of management or ETB as appropriate).

5.2.11 Important note for registered teachers:

> Every registered teacher should note that as a mandated person the statutory obligation under the Children First Act 2015 to make a mandated report to Tusla rests with the individual teacher and this applies regardless of whether or not the DLP reports the concern in question. However a registered teacher who makes a mandated report to Tusla jointly with the DLP meets his or her statutory obligation to report to Tusla under the Children First Act 2015.

5.2.12 All reports shall be submitted to Tusla in accordance with section 5.4 of these procedures.

5.3 Action to be taken by the Designated Liaison Person

5.3.1 This section sets out the procedures that the DLP must follow where concerns about a child are brought to his or her attention or where the DLP has his or her own concerns about a child. The DLP must ensure that the reporting requirements outlined in this chapter are followed correctly and promptly including, where applicable, those in relation to making a mandated report jointly with a registered teacher.

5.3.2 In cases where there are concerns about a child and the DLP is satisfied that there are reasonable grounds for concern (as described in chapter 2 of these procedures) he or she shall report the matter to Tusla immediately following the procedures for making a report set out at section 5.4 of these procedures. Where the DLP considers that the concern is at or above the defined threshold of harm for a mandated report (as described in chapter 4 of these procedures), the report in question shall be submitted to Tusla as a mandated report by the DLP. In all cases where a registered teacher has brought a concern to the DLP, the DLP and teacher shall also follow the relevant procedures set out at section 5.2 of this chapter.

5.3.3 Where there are concerns about a child, but the DLP is not sure whether to report the matter to Tusla or whether a report should be submitted to Tusla as a mandated report, the DLP shall seek advice from Tusla. It should be noted that Children First National Guidance 2017 sets out that Tusla can provide advice in this regard. In consulting Tusla, the DLP shall be explicit that he or she is requesting advice and consultation and that he or she is not making a report. At this informal stage the DLP need not give identifying details.

In all cases where the DLP has sought the advice of Tusla the DLP shall retain a record of the consultation which will note the date, the name of the Tusla official and the advice given. It should be noted that as outlined in section 5.2.6 if the concern was brought to the attention of the DLP by a registered teacher, the DLP shall inform the registered teacher that Tusla's advice is being sought and shall inform the registered teacher of the advice when received.

Where Tusla advises that a report should be submitted as a mandated report, the DLP shall act on that advice (and where applicable this report shall be submitted to Tusla jointly with the registered teacher concerned in accordance with section 5.2.5 of these procedures).

5.3.4 Where the DLP is satisfied that the concern is not at or above the defined threshold of harm for a mandated report but he or she considers that it constitutes reasonable grounds for concern he or she shall report the concern to Tusla in accordance with section 5.4 of these procedures.

5.3.5 If the DLP has any remaining doubt as to whether the concern is at or above the defined threshold of harm for a mandated report**,** the DLP shall submit the report to Tusla as a mandated report in accordance with the reporting requirements set out in this chapter, including, where applicable, those relating to joint reporting with a registered teacher as set out in section 5.2.5 of these procedures.

5.3.6 Children First National Guidance 2017 outlines that it is good practice to inform the parent/carer that a report concerning his or her child is being made and the reasons for the decision to make the report. However Children First National Guidance 2017 provides that it is not necessary to inform a parent/carer that a report is being made -

(a) if by doing so, the child will be placed at further risk or
(b) in cases where the family's knowledge of the report could impair Tusla's ability to carry out a risk assessment or
(c) if the reporter is of the reasonable opinion that by doing so it may place the reporter at risk of harm from the family.

Accordingly, any DLP who is submitting a report to Tusla should inform a parent/carer that a report is being made and the reasons for the decision to report except where any of the conditions at (a) to (c) above apply. In any case, where a registered teacher is submitting a report to Tusla, the DLP, rather than the teacher concerned, shall assume the responsibility for informing the parent/carer.

A record shall be made of the information communicated by the DLP to the parent/carer. A decision by the DLP not to inform a parent/carer shall be recorded together with the reasons for not doing so.

5.3.7 Important note for DLP:

> Where the DLP has any doubt as to whether to inform a parent/carer that a report concerning his or her child is being made to Tusla, the DLP shall seek the advice of Tusla.

5.3.8 If the DLP decides that the concern of the member of school personnel, including that of a registered teacher, should not be reported to Tusla the DLP shall give the member of school personnel a clear statement, in writing, as to the reasons why action is not being taken. A copy of this statement should be retained by the DLP.

The member of school personnel shall also be advised by the DLP that if he or she remains concerned about the situation, he or she is free to consult with or report to Tusla If the member of school personnel decides to report the concern to Tusla he or she shall use the Tusla Report Form which can be found on Tusla's website www.tusla.ie. The member of school personnel shall provide a copy of that report to the DLP. Where that report concerns a member of school personnel, the DLP shall inform the employer (the board of management/ETB as appropriate).

5.3.9 All reports shall be submitted to Tusla in accordance with section 5.4 of these procedures.

5.4 Making a Report to Tusla

5.4.1 A concern may be made known initially to Tusla either in person, by phone or in writing, to the local social work duty service in the area where the child lives.

It is generally most helpful if persons wishing to report child abuse concerns make personal contact with Tusla. This will facilitate the duty social worker in gathering as much information as possible about the child and his or her parents/carers.

5.4.2 The national contacts for Tusla can be found on the Tusla website www.tusla.ie. Each school should be familiar with the contact details for the Tusla team in its own area or region.

5.4.3 In the case of any concern (whether the concern was made known initially in person, by phone or in writing to either Tusla or An Garda Síochána), the Tusla Report form which is available on the Tusla website www.tusla.ie shall be completed and forwarded to Tusla as soon as possible thereafter. Although all information requested might not be available to the person making a report, the Tusla Report form shall be completed as comprehensively as possible.

5.4.4 The Tusla Report form shall be used for reporting all concerns to Tusla. In order to submit a report as a mandated report, the reporter shall indicate, in the manner required, on the Tusla Report form that the report is a mandated report under the Children First Act, 2015. Tusla Report form can be posted to a Tusla authorised person using the contact details on Tusla's website www.tusla.ie. Tusla is introducing an eSolution electronic report form which will be available on the Tusla website and will allow for electronic submission of reports to Tusla.

5.4.5 Under no circumstances should a child be left in a situation that exposes him or her to harm or risk of harm pending intervention by Tusla. **If it is considered that a child is in immediate danger and Tusla cannot be contacted, An Garda Síochána should be contacted without delay**.

5.4.6 Mandated persons should also note –

(a) Under the Children First Act, 2015 mandated persons are required to make a written report as soon as practicable using the Tusla Report form. The mandated person should indicate, in the manner required on the form that the report is a mandated report under the Children First Act, 2015.

(b) All mandated reports received by a Tusla authorised person will receive a formal acknowledgement of receipt by Tusla.

(c) Mandated persons are not required to report the same concern more than once. However, if a mandated person becomes aware of any additional information a further report shall be made.

(d) In addition, a mandated person is not required to make a report where the sole basis for his or her knowledge, belief or suspicion of harm is as a result of information he or she has acquired, received or become aware of

(1) from another mandated person that a report has been made to Tusla in respect of the child concerned by that other person or
(2) from a person other than a mandated person, who has reported jointly with a mandated person, that a report has been made to Tusla in respect of the child concerned by that other person, or
(3) pursuant to assisting Tusla in assessing a concern.

(e) Where a mandated person acting in the course of his or her employment or profession as a mandated person knows, believes or has reasonable grounds to suspect that a child may be at risk of immediate harm and should be removed to a place of safety, he or she may make a report to Tusla other than by means of the Tusla Report form. In such cases, a Tusla Report form must be submitted as soon as possible thereafter but in any event not later than 3 days after the making of the first-mentioned report.

5.4.7 Information on the role of Tusla and what happens after a report is made can be found in chapter 6 of these procedures.

5.5 Informing the Board of Management/Employer

5.5.1 At each board of management meeting, the principal's report to the board shall include a Child Protection Oversight Report containing information under 4 headings as follows-

(1) Allegations of abuse made against members of school personnel
(2) Other child protection concerns in respect of pupils in the school (i.e. concerns that do not involve any allegation of abuse against a member of school personnel)
(3) Child protection concerns arising from alleged bullying behaviour amongst pupils and
(4) Summary data in respect of reporting.

The information to be provided under each of the above headings is set out at sections 9.5 to 9.8 of these procedures.

5.5.2 Where an allegation of abuse is made against a member of school personnel, the DLP shall always inform the employer (the board of management or ETB as appropriate). This applies whether or not the matter is being reported to Tusla. In addition, the relevant procedures regarding allegations of abuse made against school personnel outlined in chapter 7 of these procedures shall also be followed.

5.6 Child protection concern about a member of school personnel raised by a parent

5.6.1 Where a parent of a pupil in the school makes an allegation of abuse (as described in chapter 2 of these procedures) against a member of school personnel the following additional procedures shall be followed by the DLP and the board of management as applicable.

5.6.2 The DLP shall, within 10 school days of the parent making the allegation (whether to the DLP, the board of management or another member of school personnel) issue a written notification to the parent concerned which sets out;

(a) that in accordance with the requirements of the Child Protection Procedures for Primary and Post-Primary Schools 2017 –

1. the matter has been reported by the DLP to Tusla or
2. Tusla advice has been sought in respect of the matter by the DLP and on foot of that advice the matter was not reported to Tusla or
3. the DLP determined that the matter did not constitute reasonable grounds for concern as set out under these procedures and therefore did not require reporting to Tusla and the reasons for that determination,

(b) that it is open to the parent concerned to contact Tusla directly in relation to the matter, should the parent wish to do so and,

(c) that any allegation of abuse (as described in chapter 2 of these procedures) against a school employee reported to Tusla falls to be dealt with under the relevant procedures set out in chapter 7 "Allegations of Suspicions of Child Abuse regarding School Employees" of the Child Protection Procedures for Primary and Post-Primary Schools 2017 and, as applicable, under relevant employee disciplinary procedures and therefore shall not be dealt with under the school's parental complaints procedures.

5.6.3 In any case where a parent has not received the written notification from the DLP referred to at section 5.6.2 above within the required timeframe, the parent may raise the matter directly with the DLP. If the written notification is not received by the parent within 5 school days of raising the matter with the DLP, the parent may notify the board of management in writing of this fact. In such circumstances, the board of management shall direct the DLP to ensure that a notification containing the information specified in section 5.6.2 of these procedures is issued to the parent within 10 school days of the board of management receiving the parent's written notification.

5.6.4 Where a parent of a pupil in the school makes an allegation of abuse against the DLP, the Chairperson of the board of management or, in schools where the ETB is the employer, the Chief Executive shall assume the role normally undertaken by the DLP under section 5.6 and shall follow the procedures as set out above.

5.7 Children who transfer schools

Where a child transfers from or leaves a school (including transfers from primary to post-primary) and where the DLP is aware that a child protection report relating to that child has been made to Tusla in the past, the DLP should inform Tusla of the child's transfer/move.

Chapter 6: Role of Tusla and An Garda Síochána

6.1 Purpose

This chapter sets out the role of Tusla and An Garda Síochána and is based on information contained in Children First National Guidance 2017.

6.2 Tusla

On the 1st of January 2014 Tusla - Child and Family Agency became an independent legal entity. It merged portions of three former statutory bodies: the Health Service Executive's Children & Family Services, the Family Support Agency and the National Educational Welfare Board. Tusla has responsibility for child welfare and protection services, family support, educational welfare and a range of other services including those relating to domestic, sexual and gender based violence.

The key functions of Tusla, as set out in the Child and Family Agency Act 2013 are to:

- Support and promote the development, welfare and protection of children, and the effective functioning of families.
- Offer care and protection for children in circumstances where their parents have not been able to, or are unlikely to, provide the care that a child needs. To fulfil these responsibilities, Tusla is required to maintain and develop the services needed in order to deliver these supports to children and families, and provide certain services for the psychological welfare of children and their families.
- Be responsible for ensuring that every child in the State attends school or otherwise receives an education, and provide education welfare services to support and monitor children's attendance, participation and retention in education.
- Ensure that the best interests of the child guides all decisions affecting individual children.
- Consult children and families to help shape Tusla's policies and services.
- Strengthen interagency co-operation to ensure seamless services that respond to needs.
- Undertake research relating to its functions, and provide information and advice to the Minister for Children and Youth Affairs about these functions.
- Commission child and family services.

The specific role of Tusla is to promote the welfare of children who are at risk of not receiving adequate care and protection. Under the Child Care Act 1991, Tusla is obliged

to co-ordinate information from all relevant sources about a child who may not be 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.

It is accepted that in general a child fares best within his or her own family. If at all possible, support will be offered to the child and the family to overcome any difficulties and to ensure that the child is safe. A child is only removed from his or her family as a last resort, and only if it is not possible to keep the child safe within the family setting. With the assistance of community or family support services, most families can make the necessary changes to ensure the safety of their child, and will not need social work intervention.

6.3 What happens after a report is received by Tusla

Tusla has the statutory responsibility to assess all reports of child welfare and protection concerns. Assessments are carried out by Tusla social workers. Tusla operates through duty teams of social workers that receive child protection reports, assess and prioritise referrals and provide protective interventions to children and their families. Each team deals with the concerns that arise in its specific geographical area by reference to the home address of the child. Contact details for each team can be found on the Tusla website www.tusla.ie.

If concerns are found after the initial checks, further evaluation involving a detailed examination of the child's and family circumstances will follow. If concerns about a child's welfare are found, but they do not involve a child protection issue, then the family may be referred to community or family support services. If no concerns are found, then the information gathered is recorded and kept on a confidential file where it will be examined if further concerns or more information comes to light.

6.4 Receipt of concerns by Tusla

Tusla receives reports of concerns made in person, by phone, by email or in writing. The first consideration regarding a referral is the immediate safety of the child. Tusla social workers receiving reports of a concern treat all child welfare and protection concerns seriously, whatever their source and regardless of whether or not the report was submitted as a mandated report. Reports of concerns are reviewed by Tusla to decide whether they are appropriate to Tusla's welfare or protection services and, if so, what intervention is appropriate to meet the needs of the child and their family.

If concerns are not appropriate to Tusla's welfare and protection services, Tusla will give information and advice on the most appropriate ways of addressing the needs of the child and their family.

Tusla, when it receives a report about a child will normally acknowledge it and may contact the reporter for further information, if necessary. The Children First Act, 2015 requires the CEO of Tusla to appoint authorised persons, as outlined in section 15 of the Act, to receive mandated reports. Under the Children First Act, 2015 all mandated reports received by a Tusla authorised person must receive a written acknowledgement of receipt by Tusla.

6.5 Initial checks by Tusla

Children First National Guidance 2017 outlines that when a report is received, a Tusla social worker will check to see if there is a record of any previous contact with the child's family. They may also contact other professionals (such as the general practitioner, teacher, public health nurse, speech and language therapist, child care worker, family support worker, psychologist), to see if they have any concerns about the child. The aim of this process is to help the social worker understand the child's history and circumstances, identify unmet needs, and determine if there is a risk of harm to the child. This will allow the social worker to decide on the most appropriate response.

If no child welfare or protection concerns are found, then the information gathered is recorded and kept on a confidential file. This file can be reviewed by Tusla social workers if further concerns arise or more information comes to light. If concerns are found after the initial checks, further evaluation involving an assessment of all aspects of the child and family's circumstances will follow to identify any necessary interventions. Depending on the level of need or risk of abuse identified, an intervention will generally take the form of family support services or formal social work intervention.

6.6 Social work assessment of a concern

If it is decided that an assessment is needed, the social worker will contact the family to ask for their co-operation in carrying out an examination of the child and family's needs. The aim is to work in co-operation with parents or guardians to determine the appropriate supports or interventions to ensure the safety and welfare of the child.

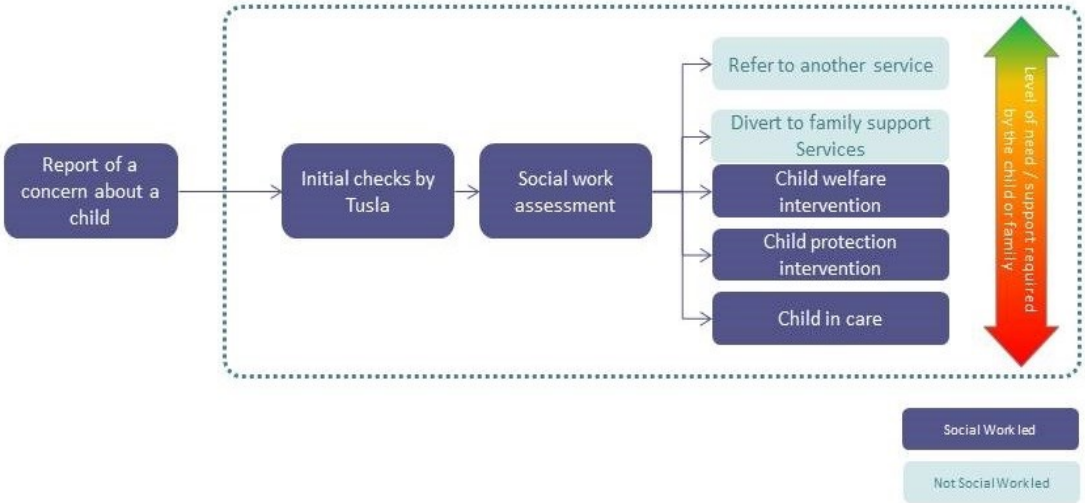
There are a number of possible outcomes to the social worker's assessment:

- The case is closed to Tusla. For example, it is not appropriate to Tusla's child welfare and protection services or no unmet need or risk in relation to the child was found. Where appropriate, the case may be referred to another support service or specialised service (e.g. meitheal, mental health or disability services).
- A family support service may be initiated by the social worker if the assessment indicates that the child has some unmet needs, but is not at risk of harm. Tusla

provides and works with a range of community-based support services that deliver practical supports to children and parents.

- The child is found to have welfare needs that require a Tusla social work-led response and intervention.
- There is a child abuse concern that requires a child protection social work response and intervention by Tusla. Where the harm is deemed to be abusive the concern is reported to An Garda Síochána. A Child Protection Conference may be arranged and the child may be listed on the Child Protection Notification System.

6.7 Tusla response to a concern



6.8 Concerns which require family support services

Many reports to Tusla will not relate to a child protection risk to the child, but will indicate that the parents/guardians are in need of help because a child's needs are not being adequately met. Tusla has a range of professionals who offer advice and support to families. They include family support workers, social workers, family therapists, social care staff, play therapists and youth workers. These professionals help families work through difficult issues, ensure that children have a stable environment to live in, and provide support for parents who are finding it hard to cope.

Where the reported concern falls below the threshold for child protection intervention by Tusla, but the family may benefit from other services, a Child Welfare Plan/Family Support Plan may be made. This will outline the steps to be taken to support the child and family. It could involve helping the parent through direct one-to-one work, parental modelling and assistance, a play or afterschool programme for the child, or practical support, such as arranging domestic help or referring for appropriate assessments. These could include psychological or psychiatric assessment of the child and/or parental assessment for mental health or addiction problems.

6.9 Concerns which require child protection intervention

Where serious concerns of ongoing risk of significant harm are identified during the assessment and interventions, or where a social worker has concerns that progress is not being made under the Child Welfare Plan/Family Support Plan, a plan of action is prepared. This is done by consulting with the parents and appropriate professionals to protect the welfare and safety of the child. A Child Protection Conference will be held to decide whether it is necessary to put the child's name on the Child Protection Notification System (CPNS) and if so, to agree a Child Protection Plan. In general, parents are invited to attend the Child Protection Conference, unless there are concerns that to do so could put the child at further risk. Further information for school personnel about attending a Child Protection Conference can be found in section 6.12 of these procedures.

6.10 Child Protection Notification System

The Child Protection Notification System (CPNS) is a secure database and contains a national record of all children who have reached the threshold of being at ongoing risk of significant harm and for whom there is an ongoing child protection concern. The list is there to help a small group of relevant professionals make decisions about the safety of a child. Access to the CPNS is strictly confined to social workers, members of An Garda Síochána, staff from out-of-hours general practitioners and hospital medical, social work or nursing staff. Parents will be notified if their child's name is on the CPNS. When it is decided that a child is no longer at ongoing risk of harm the child's record will be changed from active to inactive.

6.11 The Child Protection Plan

The Child Protection Plan applies to those children who are listed on the Child Protection and Notification system. It is a list of actions that help to reduce the risk of harm to the child and to promote their welfare. The plan makes clear the steps to be taken and who is responsible for each part of the plan. Children who are on Child Protection Plans continue to live at home, unless it emerges that a child is at ongoing risk, or if the Child Protection Plan is deemed not to be working. These cases may result in a decision to remove the child from the home.

Tusla is committed to ensuring that children are supported to live at home with their families, near their friends and schools, and within their own communities. Children are only removed from their home setting when Tusla has formed the view that, at least for the time being, their health, development or wellbeing cannot otherwise be ensured.

This is usually done by agreement with the parents. However, where agreement cannot be reached, Tusla will apply to the courts for one of a number of care orders to ensure the safety and wellbeing of the child concerned. When this happens, every effort is

made to place children and young people within their extended family (relative foster care) or in a foster care placement. Most children who come into care are placed in a family setting. Where this is not possible or appropriate, a child may be placed in a Children's Residential Service, a care facility usually located in a community setting. Every effort is also made to keep siblings together when it is necessary to remove them from their parents' care.

While the assessment/planning process is taking place, the allocated social worker will review the progress of the interventions and other information from specialists professionals involved with the family and will revise the assessment of risk accordingly. The allocated social worker will remain in close contact with the child and family regularly, make arrangement for assessments and consult with other professionals who see the child regularly. The key consideration is to identify the type of intervention required to ensure that the child's needs are being met and that the child is kept safe.

When an assessment of a child protection concern finishes, Tusla will decide whether the allegation of abuse is founded or unfounded. Tusla will liaise with An Garda Síochána for investigation of the criminal aspects of the case and formal sharing of information with third parties will be considered. 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.

6.12 Child Protection Conference: attendance by a member of school personnel

A request from Tusla for a member of school personnel to attend a child protection conference should be made to the DLP who should consult with the school authority. The school authority may, through the DLP, request the appropriate authorities to clarify why the person's attendance at the child protection conference is considered necessary and who else is going to be present.

Substitute costs, where necessary will be met by the Department of Education and Skills in respect of teachers who attend a child protection conference during school hours. A letter, signed by the relevant Tusla official, confirming the attendance of the teacher at the child protection conference should be presented to the principal and should be retained in the school. The leave should be recorded for the teacher and, where appropriate, a claim for the substitute teacher should be processed through the On Line Claims System (OLCS) or, in the case of an ETB school, through its standard procedures for dealing with such claims.

It would be normal for a person attending a child protection conference to provide a report to the conference. It should be noted that individual Tulsa areas may provide forms or templates for the report.

In line with the principle of parental involvement, which underpins Children First National Guidance 2017 a child's parents/carers would be invited to participate in a child protection conference where appropriate. Professionals should always be informed when children and/or parents/carers are going to be present at child protection conferences. Accordingly, any member of school staff invited to participate in a child protection conference who may have a concern about parent/carer involvement should contact the chairperson of the child protection conference in advance for guidance.

The recommendations of the child protection conference are concerned with the future planning for the child and family. The conference may recommend that particular agencies provide resources and services to the family. Participants may be asked to provide undertakings regarding actions that they agree to take. The recommendations may include Tulsa seeking legal advice with respect to an application for a court order to protect the child.

The school may be requested to monitor the child's behaviour in a manner that is consistent with the school's duty of care to all children. This may include observing the child's behaviour, peer interactions, school progress or informal conversations.

6.13 Sharing of Information with a Third Party

Allegations can be made by a child or an adult about current or past child protection concerns. The person who allegedly caused this harm may continue to pose a risk to any child with whom he or she has contact either in the course of his or her personal or professional lives. The child's welfare is the paramount consideration and, in a situation where a child is deemed to be at immediate and serious risk, Tusla will take all necessary steps to ensure the child's immediate safety. This may include sharing information with relevant third parties prior to informing the person who has allegedly caused the harm.

Tusla has an obligation under the Child Care Act 1991 to "promote" the welfare of children and therefore, is required to take any necessary and appropriate steps to share information with relevant third parties to ensure that effective protective measures can be taken to safeguard a child's welfare. This may involve sharing information with relevant third parties so that they, as responsible adults, can take the necessary protective action. Third parties in this context may include partners, family members or employers on a need to know basis.

Where a child is not at immediate or serious risk Tusla has a duty to ensure, where possible, that any action taken, is in accordance with natural justice and fair procedures. In particular, the person allegedly causing the harm has a right to be informed of the allegations against them and to be given a reasonable opportunity to make a response. Any information provided will form part of the assessment processes and information will not be shared with a third party until a conclusion is reached that the concerns are "founded" and that there is a belief that a child or children may be at potential risk of harm.

Tusla has developed internal procedures to guide staff when assessing allegations of abuse against an individual. These procedures require staff to promote the welfare of the child while also taking account of Tusla's co-existing obligation to protect the rights of the accused and to adhere to the principles of natural justice.

6.14 Rights of parents

Parents often find the investigation and assessment process to be very difficult and intrusive. Social workers should try to form respectful and constructive relationships with families and their children. A parent of a child being assessed by Tusla, should be told why and given the opportunity to respond. Concerns about the child should be explained to the parent. A parent should also be given information about the functions, role and powers of Tusla.

Tusla should explain both the legal rights of the parent and those of the child. The views of the parent and the views of the child, where appropriate, should be sought.

Parents should cooperate with the assessment process, and if they are unsure about any of the recommendations made, they should ask what they mean for the child and family. Tusla should explain how these changes are in the best interests of the child.

If no concerns are found, a parent may request that the social worker contacts each of the agencies they have consulted to let them know the result of the assessment.

6.15 Rights of children

Child protection interventions should always be child-centred and consider each child in the family as an individual. This means giving the child the opportunity to express his or her views with a focus on how he or she is experiencing his or her home life.

Children have a right to be heard, listened to and taken seriously. Taking account of their age and understanding, children should be consulted and involved in matters and decisions that may affect their lives.

Where there are concerns about a child's welfare or safety, opportunities should be provided for the child's views to be heard independently of his or her parents. A proper balance must be struck between protecting children and respecting the rights and needs of parents and families. Where there is conflict, Tusla should seek to put the child's welfare first.

6.16 Tusla Advice and Feedback

In all cases, where a person seeks the advice of Tusla about whether or not a matter should be reported to Tusla, Tusla is required to provide such advice.

If, for whatever reason, the initial contact within Tusla is not in a position to give such advice, a request to discuss with a more senior member of Tusla may be made.

In all cases, persons who report or discuss their concerns about the care and protection of children with Tusla staff should be informed of the likely steps to be taken by the professionals involved.

Tusla will normally acknowledge reports that are made about children and may contact the person who makes the report for further information, if necessary. Under the Children First Act, 2015, all mandated reports received by a Tusla authorised person must receive an acknowledgement of receipt in writing by Tusla.

However, it is not possible for Tusla to keep the person making the report informed on the progression or outcome of the case. The information provided will be carefully considered with any other information available to Tusla and a child protection assessment, will take place, if sufficient risk is identified. While a reporter may be frustrated at the lack of follow-up information, this is necessary in order to protect the privacy of those involved. If a reporter continues to have concerns about the safety of a child or should new information come to light after the concern has been reported to Tusla, this should be brought to the attention of Tusla.

Information in relation to Tusla feedback to the employer on the progress of a child abuse assessment/investigation involving an employee is set out in chapter 7 of these procedures.

6.17 Tusla Complaints Procedure

If a person is dissatisfied with the service they have received from Tusla, there is a complaints procedure. First, it is better to try to resolve the complaint at local level. If this is not possible, a formal complaint can be made to Tusla for investigation by the complaints officer. Information on how to make a formal complaint can be found on the Tusla website www.tusla.ie

6.18 An Garda Síochána: Role and responsibilities

The involvement of An Garda Síochána in cases of alleged child abuse and neglect stems from its primary responsibility to protect the community and to bring offenders to justice. Where it is suspected that a crime has been committed, An Garda Síochána has overall responsibility for the direction of any criminal investigation. It is the function of An

Garda Síochána to interview and take any statements that will form part of the criminal investigation file.

The role of An Garda Síochána is to investigate alleged crimes and it is the responsibility of the Director of Public Prosecutions (DPP) to decide on, and to carry out prosecutions.

6.19 Joint working between Tusla and An Garda Síochána

Joint working between Tusla and An Garda Síochána forms an integral part of the child protection and welfare service. If Tusla suspects that a crime has been committed and a child has been wilfully neglected, physically or sexually abused, it will formally notify An Garda Síochána without delay. The specific focus of An Garda Síochána concerning child abuse and neglect is on preserving life; vindicating the human rights of each individual; and preventing, investigating and detecting criminal offences. On the basis of the investigation An Garda Síochána may prepare a file for the Director of Public Prosecutions, who will decide whether to initiate a prosecution.

Where a child is at immediate risk of harm Tusla and An Garda Síochána will work together to ensure the safety of the child. If a member of An Garda Síochána has reasonable grounds for believing that there is an immediate and serious risk to the health or welfare of a child, and it would not be sufficient for the protection of that child to await the making of an application for an emergency care order by Tusla, he or she may, under section 12 of the Child Care Act 1991, remove the child from danger and bring the child to a place of safety. The child is then delivered to the care of Tusla as soon as possible. An emergency out of-hours social work service provides social work consultation and advice to An Garda Síochána. An Garda Síochána have access to an on-call social worker and placements for children who need them due to the immediate risk to their safety. Tusla has a network of emergency foster carers available to receive a child removed from their family in an emergency.

If, in their duties, An Garda Síochána become aware of a child welfare and protection concern, it should be formally reported to Tusla. As members of An Garda Síochána are mandated persons under the Children First Act, 2015 if the concern is at or above the threshold of a mandated concern, this must be reported to Tusla, as outlined in chapter 3 of the Children First National Guidance 2017.

A protocol (Tusla and An Garda Síochána Children First – Joint Working Protocol for Liaison between both Agencies) is in place between the two agencies that details how they co-operate and interact in dealing with child welfare and protection concerns. This protocol specifically covers the formal communication required between the two agencies about notifications of child welfare or protection concerns between the two agencies, and record keeping about joint working and recording of decisions. This protocol can be found on the websites of both agencies www.tusla.ie and www.garda.ie

6.20 Joint specialist interviews

Joint specialist interviews are conducted in cases where it is deemed necessary by both An Garda Síochána and Tusla. Tusla and An Garda Síochána have joint responsibility to ensure that specialist interviewer training is provided to Tusla staff and members of An Garda Síochána involved in the joint investigation of child welfare and protection cases and subsequent intervention. The aim of this training is to develop specialist expertise in the interviewing of children who may have been abused. It will also enable members of each service to fully understand each other's role and responsibilities and to learn how to work collaboratively. Joint working between social work and policing services involved in the investigation of child abuse is recognised internationally as providing children with a less traumatic investigation experience and better outcomes where criminal and social care enquiries run in parallel

Chapter 7: Allegations or Suspicions of Child Abuse regarding School Employees

7.1 Introduction

7.1.1 This chapter is intended to provide guidance to schools in situations where an allegation of abuse is made against a school employee. In this context, employee also includes an unpaid volunteer and abuse refers to abuse as described in chapter 2 of these procedures.

7.1.2 In a school context, the most important consideration to be taken into account is the protection of children, and their safety and well-being must be the priority. Each school authority also has a duty and responsibility, as an employer, in respect of its employees. The purpose of this chapter is to assist employers in having due regard to the rights and interests of the children under their care and those of the employee against whom an allegation is made.

In the case of primary schools (other than primary schools operating under an ETB), voluntary secondary schools and community and comprehensive schools the board of management is the employer. In the case of other schools which operate under an Education and Training Board, the ETB is the employer. Therefore in this chapter, the phrase "the employer" is used to refer to the board of management and/or the ETB as appropriate. Employers should also be aware of and comply with employment legislation and any other relevant employee relations policies.

In the case of allegations of abuse against ETB employees, the provisions of this chapter shall be modified as necessary to reflect the relevant governance and employment arrangements applicable to ETB schools, including as appropriate the role of the Chief Executive in employment matters.

7.1.3 It is important to note that there are two procedures to be followed:

(a) the reporting procedure in respect of the allegation/suspicion;

(b) the procedure for dealing with the employee.

In general the same person shall not have responsibility for dealing with the reporting issue and the employment issue. The designated liaison person (DLP) is responsible for reporting the matter to Tusla while the employer is responsible for addressing the employment issues. However, where the allegation/suspicion relates to the DLP, the employer shall assume the responsibility for seeking advice from and/or for reporting the matter to Tusla, as appropriate.

7.1.4 Where an allegation or suspicion of child abuse regarding a member of the board of management has been reported by the DLP (or employer as above) to Tusla, the board of management shall inform the patron that a report involving a board member has been submitted to Tusla. It is a matter for the patron to determine if any action is necessary regarding the member's continued role on the board of management, including whether the patron shall exercise his or her powers under section 16 of the Education Act, 1998.

7.1.5 In the context of allegations or suspicions of child abuse regarding school employees the primary goal is to protect the children within the school. However, school employees can be subject to erroneous or malicious allegations. The employee shall be treated fairly which includes the right not to be judged in advance of a full and fair process and as applicable, in accordance with the relevant disciplinary procedures. The Employee Assistance and Wellbeing Programme for Teachers and Special Needs Assistants also continues to be available to offer assistance to teachers and special needs assistants.

7.1.6 At all stages it should be remembered that the first priority is to ensure that no child is exposed to unnecessary risk. The employer shall as a matter of urgency ensure that any necessary protective measures are taken, including where there is an urgent child safeguarding requirement to immediately absent an employee from the school.

7.2 Protocol authorising immediate action.

7.2.1 Employers must have in place a written protocol for authorising immediate action (see Appendix 3 – Protocol authorising immediate action) when there is an urgent child safeguarding requirement to immediately absent an employee from the school. For example, this protocol will apply where the need for immediate action arises during the course of a school day or just prior to the commencement of a school day and where the immediate safeguarding of children requires that such action **must not be delayed** pending or contingent on the convening of a meeting of the board of management or the receipt of legal advice. Such action may also be triggered by the school being informed by Tusla or An Garda Síochána of a risk to children.

7.2.2 The guiding principle that must inform this protocol and its application is that the protection and welfare of children is of paramount importance, regardless of all other considerations. Keeping children safe in these circumstances means that the protocol will inevitably have to be activated immediately and without waiting to convene a board of management meeting or the receipt of legal advice. It is also very important to note that the actions under the protocol are intended to be precautionary and not disciplinary.

7.2.3 However once the safeguarding action of absenting the employee under the protocol has been put in place, the following shall apply -

(a) An emergency meeting of the board of management shall be convened
(b) Tusla shall be informed that the protocol has been operated and that the employee will be absent from the school pending an emergency meeting of the board of management. This may be done in tandem with the reporting of the allegation or if necessary by way of a separate notification to Tusla.
(c) Where the Department is paymaster, the Department shall also immediately be contacted with regard to seeking the Department's:

1. formal approval for continuation of pay for a limited period to allow for the convening of the emergency board of management meeting, and

2. sanction for the employment of a substitute teacher where this is necessary for a limited period to allow for the convening of the emergency board of management meeting

Follow up emergency meeting of the Board

7.2.4 Following the activation of the protocol, an emergency meeting of the board of management shall be convened at which the board will have to consider formally placing the employee on administrative leave and proceeding within the disciplinary process in accordance with the relevant principles and procedures therein including those related to due process and fair procedures. Where an allegation of child abuse against a member of teaching staff is being dealt with under the disciplinary procedures for teachers, it shall be dealt with under the conduct stream of those procedures.

7.2.5 Employers should note that legal advice should always be sought in these cases as circumstances can vary from one case to another and it is not possible in these procedures to address every scenario.

7.2.6 Any action taken by the employer in this regard shall be taken having regard to legal advice received and shall comply, as applicable, with the relevant provisions of employment legislation and relevant disciplinary procedures. The principles of natural justice and fair procedures shall be applied. A decision to place an employee on administrative leave does not imply any degree of guilt on the part of the school employee.

7.2.7 Immediately after the emergency meeting of the board of management, Tusla shall be informed as to whether the employee has been formally placed on administrative leave or where it has been decided not to place the employee on administrative leave, Tusla shall be informed as to the alternative child safeguarding actions that have been taken.

7.2.8 Where the Department is the paymaster, the Department shall be immediately informed of the decision of the board of management in relation to confirming the action taken under the protocol for immediate action and formally placing the employee on administrative leave and where the employee has been placed on administrative leave the board shall seek the Department's:

(a) formal approval for the continuation of pay and
(b) sanction for the employment of a substitute teacher where this is necessary

7.3 Reporting procedure

7.3.1 Where an allegation of abuse is made against a school employee, the DLP shall immediately act in accordance with the procedures outlined in chapter 5 of these procedures.

7.3.2 Once a disclosure is made by a child, a written record of the disclosure shall be made as soon as possible by the person receiving it. If a child wishes to make a written statement this should be allowed. Where an allegation of abuse is made by an adult, a written statement should be sought from this person. The ability of Tusla or the employer to assess suspicions or allegations of abuse will depend on the amount and quality of information conveyed to them.

7.3.3 School employees, other than the DLP, who receive allegations of abuse against another school employee, shall report the matter without delay to the DLP as outlined in section 5.1 of these procedures. Registered teachers shall also follow the reporting procedures at 5.2 of these procedures. The DLP shall follow the relevant procedures outlined in chapter 5 of these procedures.

7.3.4 Where the allegation or concern relates to the DLP, the school employee shall, without delay, report the matter to the Chairperson of the board of management or in schools where the ETB is the employer to the Chief Executive of the ETB concerned. In such cases, the Chairperson or Chief Executive as appropriate shall assume the role normally undertaken by the DLP and shall follow the relevant procedures set out in chapter 5 for dealing with the allegation or concern.

7.3.5 School employees who form suspicions regarding the conduct of another employee of the school shall follow the procedures in chapter 5 and consult with the DLP who may wish to consult with Tusla. If the DLP is satisfied that there are reasonable grounds for the suspicion, he or she shall report the matter to Tusla immediately, and where applicable the report shall be submitted as a mandated report or a joint mandated report. Registered teachers shall also follow the procedures at section 5.2 of these procedures, including where appropriate those relating to mandated reports and joint mandated reports. The DLP shall also report the matter to the employer who shall proceed in accordance with the procedures outlined in this chapter.

7.3.6 Whether or not the matter is being reported to Tusla, the DLP shall always inform the employer of an allegation of abuse against a school employee.

Where the DLP has not reported an allegation of abuse against a school employee to Tusla and has not sought any advice from Tusla in relation to whether or not the matter should be reported or where the DLP has not reported the matter to Tusla where advised by Tusla that the matter should be reported, the board of management shall seek the advice of Tusla in relation to the matter and shall report that matter where Tusla so advises. The Chairperson shall seek such advice on behalf of the board of management.

Where the board of management has not complied with the procedures in this section and has not reported a matter to Tusla where Tusla has advised that such a report should be made, it shall notify the school patron in writing of this fact.

7.4 Action to be taken by the employer

7.4.1 It is essential that at all times the matter is treated in the strictest confidence and that the identity of the employee shall not be disclosed, other than as required under the procedures within this document.

7.4.2 When an employer becomes aware of an allegation of abuse against a school employee, the employer shall arrange to privately inform the employee of the following:

(a) the fact that an allegation has been made against him or her;

(b) the nature of the allegation;

(c) whether or not the matter has been reported to Tusla (either by the DLP, employer, or otherwise).

7.4.3 The employee shall be given a copy of the written record and/or allegation, and any other related documentation while ensuring that appropriate measures are in place to protect the child.

7.4.4 Once the matter has been reported to Tusla the employee shall be offered the opportunity to respond to the allegation in writing to the employer within a specified period of time. The employee shall be told that his or her explanation to the employer would also have to be passed on to Tusla. The employee may opt not to respond at this juncture.

7.4.5 Any actions in relation to the employee, including whether he or she shall be placed on administrative leave while the matter is being investigated, are exclusively a matter for the employer.

7.4.6 The employer shall maintain regular and close liaison with Tusla or An Garda Síochána and a decision on the position of the school employee shall be taken having due regard to any information given to the employer by these authorities. The employer shall also keep Tusla informed of any child safeguarding actions it has taken or proposes to take in respect of the employee.

7.4.7 Where an employee has been directed to absent himself or herself from the school, such an absence does not imply any degree of guilt on the part of the school employee. Where the Department is paymaster and such an absence is directed (whether under the protocol for immediate action or by a decision of the board of management to place the employee on administrative leave (taken at an emergency meeting or otherwise)), the Department of Education and Skills shall immediately be contacted with regard to:

(a) formal approval for continuation of pay for the relevant period, and
(b) Departmental sanction for the employment of a substitute teacher where necessary for the relevant period.

7.4.8 Employers are reminded of their responsibilities to maintain strict confidentiality about all matters relating to these issues. The relevant principles of due process, fair procedures and natural justice shall be adhered to by the employer.

7.4.9 Any information or details that might identify a child should not be recorded in the minutes of board of management meetings. Board of management members are also reminded of their duty to maintain the confidentiality of board meetings and must not disclose or discuss matters discussed at board meetings unless explicitly authorised by the board of management to do so. A board member who breaches this requirement may be removed from the board of management by the patron in accordance with the relevant provisions of section 16 of the Education Act, 1998 and may not be protected in any legal proceedings taken against him or her by the general indemnity provided to board of management members under section 14(7) of the Education Act, 1998.

7.4.10 It should be noted that any actions taken by the employer in respect of the employee including disciplinary proceedings are a matter between the employer and employee in question and must be handled in the strictest confidence. This means that a third party or the person who made the allegation does not have a role in those proceedings, save for the provision of information to any investigation undertaken by the employer or the giving of evidence in a disciplinary hearing where this is applicable, and such person does not have any entitlement to information regarding the progress or conduct of such investigations or proceedings. Similarly the Department or the school patron has no role in employer/employee matters.

7.5 Further follow-up required

Employers should note the following when considering the further actions to be taken-

(a) Legal advice should always be taken in relation to any proposed actions in respect of the employee. The employer shall have regard to the legal advice received and to its obligations to afford fair procedures to its employee.

(b) Any disciplinary action required shall accord with established disciplinary procedures and shall only be taken following consultation with Tusla (and An Garda Síochána) if involved.

(c) Depending on the circumstances, Tusla may be restricted in relation to the information it may share with the employer. Accordingly, in certain circumstances, it may be necessary for the employer to call a child, parent or other adult to give evidence and for the child, parent or other adult to be cross-examined as part of a disciplinary hearing. It should be noted, however, that an employer does not have the power to compel such a person to give evidence as part of a disciplinary process. In any case where a child is to give such evidence, the child shall be treated with the utmost care and sensitivity. (Section 7.6 provides more information in relation to the information that may or may not be shared with the school employer by Tusla.)

(d) Whilst the employer has the right to conduct its own disciplinary investigation in accordance with the relevant employee disciplinary procedures independent of any Tusla assessment or An Garda Síochána

investigation, nonetheless the employer shall have due regard to the following:

(1) The employer should take care to ensure that actions taken do not undermine or frustrate any assessment/investigation being conducted by Tusla or An Garda Síochána. It is strongly recommended that the employer maintain a close liaison with these authorities to achieve this and take legal advice in relation to same.

(2) Where a report to Tusla has been made in respect of an employee, it should not be assumed that disciplinary proceedings must always await the conclusion of a Tusla assessment or An Garda Síochána investigation. In this regard, the employer should always take legal advice as to whether disciplinary proceedings should proceed or be stayed pending the conclusion of the Tusla assessment/An Garda Síochána investigation and make a decision on whether or not to proceed with disciplinary proceedings in light of that advice.

(3) A decision to stay disciplinary proceedings pending the outcome of any Tusla assessment and the reasons for that decision should be communicated to the employee. This communication should make clear that the employer reserves the right to continue disciplinary proceedings at a later point or once the Tusla assessment/An Garda Síochána investigation is complete irrespective of the outcome of that assessment/investigation. It should also indicate that the employer may have regard to the outcome of any such assessment/investigation in deciding what, if any, disciplinary action to take.

(4) In any case where it is proposed to continue with disciplinary proceedings, that proposal should be communicated to the employee. Should the employee object to that proposal, the employer should have regard to the basis for that objection before deciding on whether or not to proceed with disciplinary proceedings. The employer should take legal advice before making such a decision. Regard must also be had to not only the obligation not to frustrate the Tusla assessment, but to afford fair procedures to the employee.

(5) If a decision is made to stay disciplinary proceedings pending the outcome of a Tusla assessment or an An Garda Síochána investigation, the employee should be kept up-to-date on the progress of the Tusla assessment/Garda investigation (insofar as this is possible). In the event that the employee has been directed to be absent from work, the necessity for the employee to remain absent from work should also be kept under review, in consultation with Tusla and having regard to legal advice.

7.6 Information sharing by Tusla

Tusla has in place a policy and procedures for its staff that must be followed in relation to responding to allegations of child abuse and neglect which includes procedures for the sharing of information with an employer where such an allegation is made in respect of an employee.

It should be noted that the decision in relation to whether or not the person should be absented from the school, is entirely a matter for the employer and Tusla has no role in this regard. However, where an allegation of child abuse has been made in respect of a school employee, Tusla can advise a school employer as to the adequacy from a child protection perspective of any steps the school employer proposes to take to protect children.

In relation to the information that it can share with a school employer, Tusla has advised the Department that –

- While an assessment by Tusla is ongoing, Tusla can only provide an update on the progress of that assessment to the school employer where doing so does not prejudice the individual's right to fair procedure. This would usually require information that is to be shared with a school employer to be agreed between Tusla and the person who is subject of the allegation prior to the school employer being informed. An individual who is subject of an assessment may ask that information is not shared and in such circumstance, unless Tusla is of the view that not sharing information puts children at potential risk, Tusla would have to respect the wishes of the individual concerned. In such situations Tusla may therefore be very limited as to what information it can provide to a school employer and may be restricted to just confirming that an assessment is still on-going.

- If, after its investigation, Tusla reaches a conclusion that an allegation is "founded" it will inform the school employer and the relevant registration body (i.e. the Teaching Council in the case of registered teachers).

- Where Tusla has concluded that the allegation is "founded", Tusla will provide a copy (some content may be redacted where it is not relevant to the school's disciplinary process) of its concluding report of its findings, if requested to do so by the school employer.

- If Tusla reaches a conclusion that an allegation is "not founded", it will not share any further information with the school employer beyond confirming that its conclusion in the matter was that the allegation was "not founded".

- Where an allegation of abuse against a member of school personnel has been made directly to Tusla i.e. has not been reported to Tusla by the school, Tusla will contact the relevant school employer where it considers that there is a risk

to children. Before it informs the relevant school employer, Tusla will normally first inform the school employee that it intends to do so. However, in circumstances where there is a potential immediate serious risk to any child, the safety of the child is paramount and in such circumstance Tusla may deem it necessary to make first contact with the school employer, prior to contacting an alleged abuser, so as to ensure the safety of any child thought to be at immediate risk. Such actions will be taken on the basis that no conclusion in respect of the accuracy of allegations made against an individual will be made until such time as the social work assessment is complete. In all cases, Tusla will inform the school employee where it shares such information with an employer. The extent to which details of allegations made against the school employee can be shared by Tusla, in such circumstances, will depend on their level of concern and the relevance of the specifics of the allegations to their child protection planning.

Chapter 8: Child Safeguarding Requirements

8.1 Introduction.

8.1.1 One of the key objectives of the Children First Act, 2015 is to ensure that organisations that provide services to children (referred to as "providers of a relevant service" in the Act) keep children safe from harm while they are availing of those organisations' services. In that regard, the Act places certain statutory obligations on every such provider. These include obligations to ensure, as far as practicable, that children are safe from harm while availing of its services, to undertake an assessment of any potential for harm to a child while availing of the organisation's services (referred to as a "risk") and to produce a Child Safeguarding Statement in accordance with the Act.

8.1.2 All recognised schools fall within the definition of a "provider" of a relevant service under the Children First Act, 2015 and therefore have specific statutory obligations under the Act. The main purpose of this chapter is to give guidance to school boards of management (including boards of management of ETB schools) in relation to meeting those statutory obligations. Individual ETB's must also consider the child safeguarding obligations of the ETB in respect of all relevant services provided by the ETB.

8.2 Statutory Obligations

8.2.1 The main statutory obligations on a board of management under the Children First Act, 2015 are to:

- ensure, as far as practicable that children are safe from harm while availing of the school's services (i.e. while attending the school or while participating in school activities)
- carry out an assessment of any potential for harm to children while they are attending the school or while they are participating in school activities (this is known as a risk assessment)
- prepare and display a written Child Safeguarding Statement in accordance with the requirements of the Act
- appoint a "relevant person" as the first point of contact in respect of the school's Child Safeguarding Statement. Chapter 3 of these procedures requires that the DLP shall be appointed in this role.
- provide a copy of its Child Safeguarding Statement to members of school personnel and, where requested to parents, members of the public and to Tusla.

8.3 Ensuring children are safe from harm

8.3.1 Under section 10 of the Children First Act, 2015 boards of management have a statutory obligation to ensure, as far as practicable, that children are safe from harm (as defined in the Act) while they are attending the school or while participating in school activities.

8.3.2 Separate to the Children First Act, 2015 all schools have a duty of care to their pupils and school authorities should always be cognisant of the need for prudent practice from a child protection perspective. Child protection and welfare considerations permeate all aspects of school life and therefore must be appropriately reflected in all of the school's policies, procedures and practices. This chapter contains information about the role of curricular provision, the Stay Safe Programme, good recruitment procedures (including Garda vetting) and training in good child protection practice. The risk assessment process outlined at section 8.8 of these procedures will help identify the child protection and welfare considerations applicable to other school activities, policies, procedures and practices.

8.4 Curricular provision and child abuse prevention

8.4.1 It is the responsibility of all schools to contribute to the prevention of child abuse and neglect through curricular provision. In that context the Social, Personal and Health Education (SPHE) programme is a mandatory part of the curriculum for all students in primary schools and in the junior cycle of post-primary schools and must be fully implemented. All post-primary schools are also required to have a Relationships and Sexuality Education (RSE) programme at senior cycle.

8.4.2 All ten modules of the junior cycle syllabus in SPHE (2000) and all four strands of the specification for junior cycle short course in SPHE (2016) delivered in junior cycle contribute towards the physical, mental and emotional health and well-being of the young person. The modules on personal safety, emotional health, and relationships and sexuality are particularly relevant to child welfare and protection.

8.4.3 Since September 2017 all schools must deliver a wellbeing programme for those students entering first year from September 2017 onwards. Key components of this programme include Physical Education, SPHE, (including Relationships and Sexuality Education (RSE) Civic, Social and Political Education (CSPE)). Students' achievements in the area of Wellbeing will be recorded on the Junior Cycle Profile of Achievement from autumn 2020 onwards.

8.5 Stay Safe Programme

8.5.1 All primary schools are required to fully implement the Stay Safe programme. The Stay Safe programme for primary schools plays a valuable role in helping children develop the skills necessary to enable them to recognise and resist abuse and potentially abusive situations.

8.5.2 Schools will be informed if, in the future, the Department approves an alternative or replacement to the Stay Safe Programme.

8.6 Recruitment procedures and requirements for Garda vetting

8.6.1 School authorities must ensure compliance with the requirements of the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012 to 2016 (the Vetting Act) and with relevant Department's circulars in relation to Garda vetting of school personnel and other persons who undertake relevant work or activities with children or vulnerable persons.

8.6.2 Separate to the requirements of the Vetting Act, school authorities must also be cognisant of their civil law duty of care to their pupils and the need for prudent practice from a child protection perspective. In circumstances where the Vetting Act does not require a school authority to obtain a vetting disclosure, a school authority may from a prudent practice perspective nevertheless opt to seek a vetting disclosure in respect of a person prior to employing, contracting or placing that person to undertake relevant work or activities with children or vulnerable persons or prior to permitting that person to undertake such relevant work or activities on behalf of the school.

8.6.3 Vetting should not, however, take the place of normal recruitment procedures, such as seeking and following up of references and ensuring that any unexplained gaps in employment records/curriculum vitae are satisfactorily accounted for. Whether a person is being considered for employment or other roles in the school, comprehensive procedures for the checking of the person's suitability to work with children or vulnerable persons are an essential element of child protection practice.

8.6.4 School authorities must also ensure compliance with the Department's requirements in relation to the provision of a child protection related statutory declaration and associated form of undertaking by all persons being appointed to teaching and non-teaching positions. Further information relating to vetting requirements can be found on the Department's website www.education.ie

8.7 Training

8.7.1 Effective child protection depends on the skills, knowledge and values of personnel working with children and families, as well as co-operation between agencies (interagency) and within agencies (intra-agency). Relevant training and education is an important means of achieving this. It is imperative that boards of management ensure that all school personnel and board of management members have the necessary familiarity with these procedures to enable them to fulfil their responsibilities therein. It is envisaged that this will be achieved by the school developing a culture of awareness and knowledge of these procedures amongst all school personnel and, where appropriate, ensuring that available training is undertaken.

8.8 Risk Assessment

8.8.1 Under the Children First Act, 2015 all boards of management are statutorily obliged to undertake a risk assessment in accordance with the Act. This assessment involves considering and documenting the potential for harm to come to children (referred to as risk) while they are in the school's care.

8.8.2 Section 11 (1) (a) of the Children First Act, 2015 defines risk as "any potential for harm to a child while availing of the service." **It should be noted that Children First outlines that risk in this context is the risk of "harm" as defined in the Children First Act, 2015 and not general health and safety risk.** Section 2 of the Act 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,*
>
> *whether caused by a single act, omission or circumstance or a series or combination of acts, omissions or circumstances or otherwise;*
>
> *"ill-treatment" means, in relation to a child, to abandon or cruelly treat the child, or to cause or procure or allow the child to be abandoned or cruelly treated;*
>
> *"neglect" means, in relation to a child, to deprive the child of adequate food, warmth, clothing, hygiene, supervision, safety or medical care;"*
>
> *"welfare" includes, in relation to a child, the moral, intellectual, physical, emotional and social welfare of the child."*

Chapter 4 of these procedures outlines that under the Children First, Act 2015 harm is defined as assault, ill-treatment, neglect or sexual abuse of a child which is at or above a defined threshold. The threshold of harm for each category of abuse is set out in section 4.3 of these procedures.

8.8.3 A risk assessment is an exercise whereby an organisation examines all aspects of its activities to establish whether there are any practices or features of those activities that have the potential to put children at risk of harm (as defined in the Act and set out in chapter 4 of these procedures). Children First National Guidance 2017 outlines that the risk assessment process is intended to enable an organisation to:

- Identify potential risks of harm
- Ensure appropriate policies and procedures are in place to minimise risk of harm by responding in a timely manner to potential risks
- Review whether adequate precautions have been taken to eliminate or reduce these risks of harm.

8.8.4 The Children First National Guidance and Tusla's document "*Guidance on developing a child safeguarding statement*" provides further information on completing a risk assessment and on best practice policies and procedures for safeguarding children and reporting child welfare and protection concern.

8.8.5 Under these procedures all boards of management are required to complete the risk assessment template published by the Department of Education and Skills when undertaking this risk assessment. The template is available on the Department's website. The completed risk assessment template shall be included in the school's Child Safeguarding Statement.

8.8.6 As an aid to undertaking the risk assessment, the template contains examples of activities, risks of harm and procedures to manage those risks that are common to many schools. Each board of management shall select and include those that are relevant to its particular circumstances.

8.8.7 It is acknowledged that schools already have in place a range of policies, practices and procedures to mitigate the risk of harm to children while they are participating in the activities of the school and that some of these activities will carry low or minimal risks of harm compared to others. In the context of the risk assessment that must be undertaken by schools, the Children First Act, 2015 refers to risk as "any potential for harm". Therefore, it is important that, as part of its risk assessment process, the board of management lists and reviews all of its various activities (which shall include listing those that may carry low risk of harm as well as those that carry higher risks of harm). Doing so will help the board of management to (1) identify, as required under the Children First Act, 2015, any risks of harm that may exist in respect of the school's activities, (2) identify and assess the adequacy of the various procedures already in place to manage those risks of harm and (3) identify and put in place any such additional procedures as are considered necessary to manage any risk identified.

8.8.8 Boards of management should also note that the list of examples provided with the template is not intended to be exhaustive. It is the responsibility of each board of management to ensure, as far as possible, that any other risks that are relevant to its own particular circumstances are identified and specified in the written risk assessment and that adequate procedures are in place to manage all risks identified. As the nature of school activities and the legislative and other procedural requirements relevant to child safeguarding in schools may change over time, the published risk assessment template and list of examples may be updated by the Department in the future. Accordingly, when undertaking or reviewing their risk assessment in future years, boards of management must ensure that they use the most up to date version of the risk assessment template and list of examples as published on the Department's website.

8.8.9 Where a school provides any after-school activity or service to its pupils such as boarding facilities, it should ensure that it has in place adequate child protection measures for that activity or service and that these include clear reporting procedures for ensuring that any child protection concerns arising within such activity or service are reported promptly to Tusla in accordance with the relevant requirements of Children First National Guidance 2017 and the Children First Act, 2015. Such procedures should include clearly documented procedures for ensuring that the DLP of the school is kept appropriately informed of any child protection concerns that arise within the activity or service concerned. In accordance with the Children First Act, 2015, the school's risk assessment and Child Safeguarding Statement must also take account of any such activity or service and specify the risks of harm identified and the procedures that are in place to manage those risks.

8.8.10 Section 8.10 of these procedures sets out the timelines by which schools must complete their risk assessment and Child Safeguarding Statement.

8.9 Child Safeguarding Statement

8.9.1 Section 11 of the Children First Act, 2015 places a statutory obligation on providers of a relevant service, including all recognised schools, to prepare a Child Safeguarding Statement. In accordance with the Act, this is a written statement which must -

1) specify the services being provided by the provider (i.e. school)

2) specify the principles and procedures to be observed in order to ensure, as far as practicable, that a child availing of the school's services is safe from harm

3) include a written risk assessment of risk carried out in accordance with the Act

4) specify the procedures that are in place to manage any risk identified and

5) specify the procedures that are in place –

    a) in respect of any member of staff who is the subject of any investigation (howsoever described) in respect of any act, omission or circumstance in respect of a child availing of the relevant service,
    b) for the selection or recruitment of any person as a member of staff of the provider with regard to that person's suitability to work with children,
    c) for the provision of information and, where necessary, instruction and training, to members of staff of the provider in relation to the identification of the occurrence of harm,
    d) for reporting to Tusla by the provider or a member of staff of the provider (whether a mandated person or otherwise) in accordance with the Children First Act, 2015 or the guidelines issued by the Minister under section 6 of the Act (i.e. Children First National Guidance 2017),
    e) for maintaining a list of the persons in the relevant service who are mandated persons, and
    f) for appointing a relevant person as the first point of contact in respect of the provider's child safeguarding statement.

8.9.2 The Act requires that the Child Safeguarding Statement has due regard to Children First National Guidance 2017, any other child protection guidelines issued by the Minister for Children and Youth Affairs or any guidelines concerning child safeguarding statements that are issued by Tusla under section 11 (4) of the Children First Act, 2015

8.9.3 These procedures require that the template Child Safeguarding Statement published by the Department of Education and Skills must be used by all boards of management for this purpose. As the nature of school activities and the legislative and other procedural requirements relevant to child safeguarding in schools may change over time, the published Child Safeguarding Statement template may be updated by the Department in the future. Accordingly, when preparing or reviewing their Child Safeguarding Statement in the future, boards of management must ensure that they use the most up to date version of the template as published on the Department's website.

8.10 Timeframes for completing a Risk Assessment and preparing a Child Safeguarding Statement

8.10.1 Under the Children First Act, 2015 in the case of all schools in existence on **11 December 2017** the risk assessment and Child Safeguarding Statement must be prepared by **11 March 2018.**

8.10.2 In the case of a school established after **11 March 2018** the requirement must be met within three months from the date on which the school opens to receive pupils.

8.10.3 From 11 March 2018 the requirement to have a Child Safeguarding Statement replaces the previous requirement to have a Child Protection Policy which was in place under the previous *Child Protection Procedures for Primary and Post Primary Schools* which were published in 2011.

8.11 Publication, Display and Sharing of the school's Child Safeguarding Statement

8.11.1 Under the Act, a board of management is obliged to provide a copy of the Child Safeguarding Statement to all school personnel and must make it available to parents, Tusla and members of the public upon request.

8.11.2 These procedures require that a copy of the Safeguarding Statement shall be provided to the patron and the Parents' Association and shall be made available on request to the Department. A copy of the Safeguarding Statement shall also be published on the school's website.

The Act requires that the Child Safeguarding Statement be displayed in a prominent place in the school and these procedures require that this shall be near the main entrance to the school. These procedures require that the name of the DLP shall also be displayed next to the Child Safeguarding Statement.

8.11.3 Section 3.5.2 of these procedures also requires that the DLP shall be appointed as the "relevant person" under section 11 of the Children First Act, 2015 for the purposes of being the first point of contact in respect of the school's child safeguarding statement.

8.12 Oversight by the Board of Management

8.12.1 Boards of management are responsible for ensuring that the child safeguarding requirements of these procedures are implemented in full and must exercise appropriate oversight in this regard. In addition to following the requirements of this chapter, the board of management shall ensure that all of the oversight requirements of these procedures, including those set out in chapter 9, are met in full by the board of management.

8.13 Reviewing the Child Safeguarding Statement

8.13.1 These procedures require that the Child Safeguarding Statement be reviewed annually in accordance with the requirements set out in this chapter. Undertaking this annual review will ensure that a board of management also meets its statutory obligation under section 11(7) of the Children First Act, 2015 to review its Child Safeguarding Statement every two years.

8.13.2 However, boards of management should also be aware that the Children First Act, 2015 requires that the Child Safeguarding Statement must be reviewed sooner than the timelines referred to above, where there is any material change in any matter to which the statement refers.

8.13.3 These procedures require that as part of the review of the school's Child Safeguarding Statement, the board of management shall specifically review the school's implementation of the 'Child Protection Procedures for Primary and Post Primary Schools 2017'. The Department has published a template checklist that shall be used as an aid to conducting the annual review of the Child Safeguarding Statement. The checklist is not intended as an exhaustive list of the issues to be considered. Individual boards of management shall include other items in the checklist that are of relevance to the school in question.

8.13.4 As part of its annual review of the Child Safeguarding Statement, the board of management must seek feedback from parents in relation to the school's compliance with the child safeguarding requirements of these procedures. As part of the review, the views of pupils on the school's safeguarding arrangements should also be sought by the board of management. This should be done in a manner appropriate to the age and maturity of the children concerned. Any areas for improvement identified as a result of feedback from parents and pupils should be addressed.

8.13.5 The board of management shall put in place an action plan to address any areas for improvement identified by the review and arrange for these to be dealt with as quickly as possible.

8.13.6 The board of management shall make arrangements to inform school personnel that the review has been undertaken. Written notification that the review has been undertaken shall be provided to the Parents Association (or where none exists directly to parents) and to the school patron. The Department has also published a standard notification which shall be used for this purpose. A copy of this notification shall be published on the school's website. Records of the review and its outcome shall be retained and made available, if requested, to the patron and/or the Department.

8.13.7 As the nature of school activities and the legislative and other procedural requirements relevant to child safeguarding in schools may change over time, the published checklist template and standard notification may be updated by the Department in the future. Accordingly, when undertaking their annual review, boards of management must ensure that they use the most up to date version of the template checklist and standard notification available on the Department's website www.education.ie.

8.14 Non Compliance and register of non-Compliance

8.14.1 The Children First Act, 2015 provides that Tusla may establish and maintain a register of non-compliance detailing any providers of relevant services that fail to provide a copy of the Child Safeguarding Statement to Tusla when requested to do so. Under the Act, Tusla must make the register available for inspection to the public at all reasonable times at its principal office.

Chapter 9: Oversight

9.1 Introduction

9.1.1 The publication of the updated Children First National Guidance 2017 and the introduction of statutory obligations on certain individuals (mandated persons) and organisations (including schools) places a renewed focus on child protection. The main aims of the Children First Act 2015 and the Children First National Guidance 2017 are to ensure that concerns about child abuse wherever they arise are reported promptly and properly to Tusla and that organisations that provide services to children keep those children safe from harm. In order to ensure that these aims are met in the schools sector, it is essential that an appropriate oversight and compliance framework is in place.

9.1.2 There is already a very strong culture of child protection across our schools and the previous child protection procedures published in 2011 put in place certain oversight measures to help support and reinforce that culture. However, in the context of the new statutory obligations that apply to all registered teachers and to all school authorities, it is essential that the oversight arrangements for the sector are strengthened so that they are as comprehensive and robust as possible. This will help ensure that the sector can be satisfied and can demonstrate that our schools and their staff are operating in full compliance with the Children First Act 2015, Children First National Guidance 2017 and with the Department's requirements as set out in these procedures for schools.

9.1.3 Accordingly, these updated procedures for schools have put in place some important new oversight measures to help ensure and demonstrate that the new statutory obligations of the Children First Act, 2015 and the best practice obligations of the Children First National Guidance 2017 are being adhered to by both school personnel and by school authorities. The measures are designed to address oversight of two key areas namely compliance with the reporting obligations and compliance with the child safeguarding obligations as set out in these procedures.

9.1.4 It is an accepted principle of effective oversight and quality assurance processes that a range of complementary measures are used to ensure high quality implementation and provision. For this reason, a range of measures will be used to ensure the implementation of these procedures. This chapter outlines the main oversight provisions that apply at school level. It also outlines the wider oversight context in which schools operate, including the oversight roles of the Department of Education and Skills, Tusla, the Department of Children and Youth Affairs and its Children First Interdepartmental Group.

9.2 Oversight and compliance by school leadership

9.2.1 The pivotal role of the DLP in child protection is long established in the schools sector and in recognition of the significant leadership skills required of the role, the DLP is normally the school principal.

9.2.2 The DLP's role in the day to day management and oversight of child protection reporting is particularly important. In that regard, the DLP, inter alia, acts as a key resource person to any member of school personnel who has a child protection concern, ensures that the reporting requirements of these procedures are followed correctly and promptly and that all appropriate records are properly maintained. As the DLP is normally the school principal, he or she will also normally be responsible for providing the principal's report to each board of management meeting. This report must now include a Child Protection Oversight Report, further details of which are set out in section 9.4 of this chapter.

9.2.3 Notwithstanding the new mandatory reporting requirements for individual teachers, these procedures continue to recognise the importance of the DLP role and continue to require that all child protection concerns are channelled through the DLP as heretofore. The DLP's central role in advising school personnel about any concerns that they may have about pupils combined with his or her wider knowledge and awareness of child protection matters plays a key role in ensuring that issues are identified and reported as early as possible.

9.3 Oversight by the Board of Management

9.3.1 Under the Education Act, 1998, the board of management is the body charged with the direct governance of a school. Accordingly, it is the responsibility of the board of management to ensure that these procedures are implemented in full and to quality assure their effectiveness on a regular basis. In that regard, good governance requires that the board of management can and does satisfy itself that the school has robust procedures in place to enable it to deal fully and properly with all child protection matters in the school in accordance with the Children First Act, 2015, the Children First National Guidance 2017 and with the Department's requirements as set out in these procedures for schools. These procedures contain certain oversight measures aimed at ensuring that the board of management meets its responsibilities in this regard.

9.3.2 It is a particularly serious matter for a school where an allegation of abuse has been made against a member of school personnel and in such circumstances the relevant procedures in chapter 7 shall be followed by the employer including where necessary the implementation of the protocol authorising immediate action and the commencement of any disciplinary process required. However, separately and solely from the perspective of oversight of the reporting requirements, a number of specific requirements have been put in place in respect of the reporting to Tusla of allegations of abuse against employees. Such allegations may arise in a number of ways e.g. as a result of a parental allegation, a concern of another staff member, a disclosure from a child or as a result of information provided to the school by Tusla or An Garda Síochána. In addition to the oversight of reporting of allegations against members of school personnel, oversight requirements have also been put in place for boards of management in relation to the wider reporting of child protections concerns in respect of children in the school and in relation to compliance with these procedure's requirements in respect of the school's safeguarding requirements.

9.3.3 It is acknowledged that it is the personal responsibility of members of school personnel to comply with the reporting requirements in these procedures where they become aware of a concern about a child. Where a person has failed to act in respect of such a concern it may be extremely difficult for a board of management to establish this fact as it may not immediately, or in some cases may not ever, come to the board's attention. Notwithstanding this limitation, these procedures aim to ensure that the arrangements for the oversight of reporting are as robust and comprehensive as possible.

9.3.4 In relation to oversight of the reporting of child protection concerns, these procedures require certain information to be provided to and reviewed by the board of management. In that regard, sections 9.4 to 9.8 outline the requirements for a Child Protection Oversight Report to be provided to the board of management.

9.3.5 Section 9.9 also outlines the oversight requirements in respect of the school's child safeguarding obligations.

9.4 Principal's Child Protection Oversight Report to the board of management

9.4.1 At each board of management meeting, the principal's report to the board shall include a Child Protection Oversight Report containing information under 4 headings as follows-

(1) Allegations of abuse made against members of school personnel (see section 9.5)

(2) Other child protection concerns in respect of pupils in the school (i.e. concerns that do not involve any allegation of abuse against a member of school personnel) (see section 9.6)

(3) Child protection concerns arising from alleged bullying behaviour amongst pupils (see section 9.7) and

(4) Summary data in respect of reporting (see section 9.8)

9.4.2 The information that shall be provided under each of the headings (1) to (4) is set out at sections 9.5 to 9.8 of these procedures.

9.5 Allegations of abuse against members of school personnel

9.5.1 As part of the principal's report to the board of management, the Child Protection Oversight Report shall-

(a) state the number of reports made to Tusla since the last board meeting in respect of an allegation of abuse against a member of school personnel,

(b) state the number of cases, since the last board meeting, where the DLP sought advice from Tusla in relation to an allegation of abuse against a member of school personnel and the matter was not reported by the DLP based on the advice of Tusla,

(c) state the number of cases, since the last board meeting, where an allegation of abuse has been made against a member of school personnel and the DLP has not sought any advice from Tusla in relation to the matter and has not been reported the matter to Tusla, and

(d) state the number of cases, since the last board meeting, where an allegation of abuse has been made against a member of school personnel and the DLP did not report the matter to Tusla in circumstances where Tusla has advised the DLP that it should be reported.

(e) where there were no such cases at (a), (b), (c) or (d) above, state this fact.

9.5.2 In each case referred to at (a) and (b) above, the board of management shall be provided with and review the following at the board meeting-

1. Copies of all records and notes pertaining to how the allegation came to be known to the DLP
2. Copies of any records and notes pertaining to the seeking of Tusla advice in relation to the allegation and to the advice given
3. Copies of any report submitted to Tusla in respect of the allegation
4. Copies of any other records of communications with Tusla, An Garda Síochána or any other party in relation to the allegation (including any acknowledgement of receipt of the report by Tusla)

5. Copies of any notification issued under section 5.6 of these procedures
6. Copies of any statement provided to a member of school personnel under section 5.3.8 of these procedures.

9.5.3 The documents listed in section 9.5.2 shall be provided to the board of management members at the board meeting and all documents shall be recovered after the matter has been dealt with and placed on the appropriate case file by the DLP. The documents shall not be separately circulated to or retained by any members of the board. The minutes of the board of management meeting shall specify the documents provided to the board meeting in accordance with the above requirement. The minutes shall not name the employee or any children referred to in the documentation but shall record the matter by reference to the unique code or serial number assigned to the case/parties concerned.

9.5.4 It should be noted that these records must be treated in the strictest confidence by all board of management members and board members shall be cognisant that **they are to be reviewed solely for the purposes of oversight of the reporting requirements set out in these procedures**. Great care shall be taken to ensure that the board members' oversight of the reporting requirements do not impinge on any future actions that may be required to be taken in accordance with the relevant disciplinary procedures. Accordingly, under no circumstances shall the board members enter into any discussion or investigation in relation to the substance or credibility or otherwise of the allegation in question when undertaking this oversight role. The purpose of this review is solely to review whether, based on the information available to the DLP and any Tusla advice available, the relevant reporting requirements were followed. Any discussion, investigation or decisions in respect of any further actions to be taken in respect of the employee against whom the allegation has been made must be undertaken separately and in accordance with the relevant procedures in chapter 7.

9.5.5 Board members are also reminded of their duty to maintain the confidentiality of board meetings and must not disclose or discuss matters discussed at board meetings unless explicitly authorised by the board of management to do so. A board member who breaches this requirement may be removed from the board by the patron in accordance with the relevant provisions of section 16 of the Education Act, 1998 and in relation to such breach may not be protected in any legal proceedings taken against him or her by the general indemnity provided to board of management members under section 14(7) of the Education Act, 1998.

9.5.6 Where any of the cases referred to at (c) and (d) of section 9.5.1 above arise, the DLP shall immediately inform the chairperson of the board of management of this fact. An emergency meeting of the board of management shall be convened at which the board members shall be provided with and review the documents referred to at (1) to (6) in section 9.5.2. Prior to the emergency meeting of the board of management, the chairperson shall, on behalf of the board, seek the advice of Tusla as to whether the allegation should be reported and shall report the matter on behalf of the board of management where advised to do so. The chairperson shall also provide the board of management with

1. A copy of the chairperson's records or notes pertaining to his or her seeking of Tusla advice in relation to the allegation and to the advice given
2. A copy of the report submitted to Tusla in respect of the allegation and any acknowledgement of receipt of that report by Tusla

9.5.7 The provisions at sections 9.5.3 to 9.5.5 inclusive shall also apply to the emergency meeting of the board of management and to the documents referred to at 1 and 2 in section 9.5.6

9.5.8 Where the board of management has not complied with the procedures in this section and has not reported a matter to Tusla in circumstances where Tusla has advised that such a report should be made, it shall notify the school patron in writing of this fact. The minutes of the relevant board of management meeting shall record this action and a copy the notification to the patron shall be retained.

9.5.9 It should also be noted that failure by any member of school personnel to report a matter to Tusla where advised by Tusla to do so or to otherwise fail to comply with these procedures, is a disciplinary matter to be reported to and dealt with separately by the employer in accordance with the relevant disciplinary procedures.

9.6 Other child protection concerns in respect of pupils in the school (i.e. cases that do not involve any allegation of abuse against a member of school personnel)

9.6.1 Separate to the cases referred to at sections 9.5 and 9.7 of these procedures, as part of the principal's report to the board of management, the Child Protection Oversight Report shall specify the number of cases that have arisen since the last board meeting under each of the following headings -

a) Any case where a member of school personnel has submitted a report to Tusla in respect of a child in the school in circumstances where the DLP has decided that the matter did not warrant reporting

b) Any case where the DLP has sought the advice of Tusla in respect of a concern about a child in the school and Tusla has advised that the matter should not be reported
c) Any case where the DLP has sought the advice of Tusla in respect of a concern about a child in the school and Tusla has advised that the matter should be reported but the DLP has not reported the matter in question.

Where there are no such cases at (a), (b) or (c) above, the report shall state this fact.

9.6.2 In respect of each case arising under the above headings, the board of management shall also be provided with and review the documents listed below:

1) Copies of all records and notes pertaining to how the concern came to be known to the DLP
2) Copies of any records and notes pertaining to the seeking of Tusla advice in relation to the concern and to the advice given
3) Copies of any reports submitted to Tusla by any member of school personnel in relation to the concern
4) Copies of any other records of communications with Tusla, An Garda Síochána or any other party in relation to the concern (including any acknowledgement of receipt of the report by Tusla)
5) Copies of any statement provided to a member of school personnel under section 5.3.8 of these procedures

9.6.3 **It should be noted that the records provided to the board of management under section 9.6.2 shall be anonymised and redacted as necessary to ensure the identities of any children and any other parties to whom the concern or report relates are not disclosed**. The documents in question shall be provided to the board of management members at the board meeting and all documents shall be recovered after the matter has been dealt with and placed on the appropriate case file by the DLP. The documents shall not be separately circulated to or retained by any members of the board of management. The minutes of the board meeting shall specify the documents provided to the board meeting in accordance with the above requirement. The minutes shall not name any children or any other parties to whom the concern or report relates but shall record the matter by reference to the unique code or serial number assigned to the case/parties concerned.

9.6.4 It should be noted that these records must be treated in the strictest confidence by all board of management members and board members shall be cognisant that **they are to be reviewed solely for the purposes of oversight of the reporting requirements set out in these procedures**. Under no circumstances shall the board members enter into any discussion or investigation in relation to the identity of the children or other parties in question or in relation to the substance or credibility or otherwise of the concern or report in question when undertaking this oversight role. The purpose of this review is solely to review whether, based on the information available to the DLP and any Tusla advice available, the relevant reporting requirements were followed.

9.6.5 Board of management members are reminded of their duty to maintain the confidentiality of board meetings and must not disclose or discuss matters discussed at board meetings unless explicitly authorised by the board to do so. A board member who breaches this requirement may be removed from the board of management by the patron in accordance with the relevant provisions of section 16 of the Education Act, 1998 and in relation to such breach may not be protected in any legal proceedings taken against him or her by the general indemnity provided to board of management members under section 14(7) of the Education Act, 1998.

9.6.6 It should also be noted that failure by any member of school personnel to report a matter to Tusla where advised by Tusla to do so or to otherwise fail to comply with these procedures, is a disciplinary matter to be reported to and dealt with separately by the employer in accordance with the relevant disciplinary procedures.

9.7 Child protection concerns arising from alleged bullying behaviour amongst pupils

9.7.1 As part of the principal's report to the board of management, the Child Protection Oversight Report shall specify the number of cases, since the last board of management meeting, where

(a) the DLP has reported a concern about a child arising from alleged bullying behaviour amongst pupils
(b) the DLP has sought Tusla advice as to whether to report a concern about a child arising from alleged bullying behaviour amongst pupils,

Where there were no such cases at (a) or (b) above, the report shall state this fact.

9.7.2 In respect of any case referred to at (a) or (b) in section 9.7.1, the board shall also be provided with and review the documents listed below:

1) Copies of all records and notes pertaining to how the concern came to be known to the DLP

2) Copies of any records and notes pertaining to the seeking of Tusla advice in relation to the concern and to the advice given
3) Copies of any reports submitted to Tusla by any member of school personnel in relation to the concern
4) Copies of any other records of communications with Tusla, An Garda Síochána or any other party in relation to the concern (including any acknowledgement of receipt of the report by Tusla)
5) Copies of any statement provided to a member of school personnel under section 5.3.8 of these procedures

9.7.3 **It is important to note that sections 9.6.3 to 9.6.5 inclusive shall also apply to the records provided to the board of managements under section 9.7.2**. It should also be noted that any discussion or decisions in respect of any further actions to be taken in respect of the alleged bullying behaviour shall be undertaken separately in accordance with the school's Anti-Bullying Policy and the relevant procedures set out in the Department's *Anti-Bullying Procedures for Primary and Post-Primary Schools*.

9.8 Summary data in respect of reporting

9.8.1 As part of the principal's report to the board of management, the Child Protection Oversight Report shall also -

a) state the total number reports made to Tusla by the DLP since the last board of management meeting and shall state the number of those reports which were submitted as mandated reports and whether or not any of those reports (mandated or otherwise) concerned a member of school personnel;

b) state the total number of cases, since the last board meeting, where the DLP sought advice from Tusla and as a result of this advice, no report was made by the DLP, and state whether or not any of those cases concerned a member of school personnel;

c) state the total number of cases since the last board meeting where a member of school personnel provided the DLP with a copy of a report submitted by that person to Tusla in relation to a matter that the DLP had considered did not require reporting or did not require reporting as a mandated report and state whether or not any such cases concerned a member of school personnel;

d) where there were no such cases at (a), (b) or (c) above, state this fact.

9.9 Board of Management oversight of Child Safeguarding Statement requirements

9.9.1 The overall principle informing the oversight function of the board of management is the need for boards of management to ensure that they have robust procedures in place to fully implement these procedures and to satisfy themselves that their procedures are effective in ensuring that all children are safe from harm while attending the school or while participating in school activities. To this end boards of management should ensure that these procedures are implemented in full. In particular the board of management shall:

- formally adopt the Child Safeguarding Statement and the minutes of the relevant board meeting shall record this fact.
- satisfy itself and record in the relevant board minutes that each of the requirements for display, publication and circulation of the Statement as set out in these procedures have been met in full.
- undertake an annual review of the Child Safeguarding Statement and issue the notification confirming completion of that review to the patron and the Parents' Association in accordance with the procedures set out in chapter 8 of these procedures. The board of management shall also publish the notification confirming completion of the annual review on the school website. The minutes of the relevant board meeting shall record that that it has undertaken the review and has issued/published the notifications confirming same.

9.9.2 Any complaints or suggestions for improvement that are made to the board of management or to a member of school personnel regarding the school's Child Safeguarding Statement shall be brought to the attention of the board at the next following board meeting. The board of management shall be informed of any action taken on foot of such complaint or suggestion. The board of management shall review the matter and shall, where appropriate, implement any improvement considered necessary or remedy any deficiency identified regarding its compliance with these procedures' requirements in respect of the school's Child Safeguarding Statement. The minutes of the relevant board meeting(s) shall record the foregoing.

9.9.3 As part of its annual review of the Child Safeguarding Statement, the board of management must seek feedback from parents in relation to the school's compliance with the child safeguarding requirements of these procedures. As part of this annual review, the views of pupils on the school's safeguarding arrangements should also be sought by the board. This should be done in a manner appropriate to the age and maturity of the children concerned. Any areas for improvement identified should be addressed.

9.10 Role of the patron

9.10.1 In accordance with section 14 of the Education Act, 1998, the board of management manages the school on behalf of the patron. Section 14 of the Act requires that the board of management must consult with and keep the patron informed of decisions and proposals of the board. This requirement applies to the range of decisions and proposals of the board including any relating to child protection.

9.10.2 These procedures require that the patron be provided with a copy of the Child Safeguarding Statement and the notification regarding the annual review of the Child Safeguarding Statement.

9.10.3 Records of the annual review of the Child Safeguarding Statement and its outcome shall be made available, if requested, to the patron.

9.10.4 Where an allegation or suspicion of child abuse or neglect regarding a member of the board of management has been reported by the DLP (or employer) to Tusla, the board of management shall inform the patron that a report involving a board member has been submitted to Tusla. It is a matter for the patron to determine if any action is necessary regarding the member's continued role on the board of management, including whether the patron shall exercise his or her powers under section 16 of the Education Act 1998.

9.10.5 The patron must also be informed where the board of management has not complied with the procedures set out in section 7.3.6 and has not reported an allegation of abuse against an employee to Tusla where advised by Tusla to do so.

9.11 Record keeping requirements

Good record keeping is an essential element of good governance and oversight. These procedures contain a number of requirements in relation to ensuring appropriate records are created and maintained and can therefore be accessible for oversight purposes. Appendix 4 of these procedures contains a summary of the main record keeping requirements of these procedures.

9.12 Role of the Department of Education and Skills in oversight

9.12.1 The Department of Education and Skills is responsible for developing child protection procedures for schools based on the requirements of the Children First Act, 2015 and the Children First National Guidance 2017.

As is the case with oversight by school boards of management, it is not sufficient to simply put in place the systems and procedures to be followed by schools. The challenge is also to quality assure the procedures to ensure that they are being implemented effectively on a continuing basis. Therefore the Department must also exercise oversight of how schools fulfil their obligations in legislation and in these procedures having regard to the governance responsibilities of school authorities.

As in the cases of schools, the Department will put in place a range of complementary oversight measures. These measures will serve specific functions and will vary in the aspects of the procedures that they monitor. However when combined they aim to provide a coherent, whole-of-system approach to the oversight and quality assurance of these procedures.

In order to ensure compliance and effective oversight, all schools are required to comply with any request from the Department for relevant information regarding their compliance with these procedures and to comply with any direction from the Department requiring them to implement these procedures.

The oversight by the Department may be represented as follows:

Schools Division

- Overall responsibility for developing and issuing Child Protection Procedures and supporting materials
- Liaision with Tusla regarding child protection

Inspectorate

- Monitoring the impementation of the procedures at school level
- Reporting to Schools Division on the implementation of the procedures

Child Protection Oversight Group (CPOG)

- Receive regular reports from the Department's Schools Division and Inspectorate about the compliance of schools with the procedures and the volume and nature of child protection concerns or complaints received by the Department
- Receive regular reports from Schools Division and the Inspectorate on schools that are not in compliance with child protection procedures.
- Engage with schools that are not in compliance with these procedures until such time as they become compliant

Management board of the Department

- Receive regular reports from Schools' Division, the Inspectorate and the CPOG as to the implementation of the procedures
- Regularly review the Department's approach to child protection

9.12.2 The Department's Schools Division will-

- Develop and issue child protection procedures and other materials to support schools in fully implementing the Children First Act 2015 and the Children First National Guidance 2017

- Develop and issue circulars and guidance regarding requirements on schools in relation to child protection, such as the publication of templates for the child safeguarding statement and annual review requirements

- Receive and act on reports from the Inspectorate and others sections as appropriate regarding compliance with child protection procedures and circulars

- Engage with schools and/or with patrons where concerns have been identified to ensure that practice is improved

- Liaise with external agencies Tusla, An Garda Síochána etc. including
    - Report all allegations to Tusla
    - Receive concerns from Tusla about individual schools and engage with the board of management and/or patron to ensure cooperation from the school with Tusla

- Support CPOG and implement its decisions

- Report to the Management Board on two monthly basis on the implementation of the child protection procedures by schools

9.13 Oversight by the Department's Inspectorate

9.13.1 The Inspectorate will-

- monitor the compliance of schools with the requirements of the child protection procedures for primary and post-primary schools
- advise schools on the general implementation of these procedures where appropriate
- report to the school principal and/or board of management of each school in relation to the school's compliance with the requirements of these procedures
- report to the Schools' Division of the Department concerning the compliance of schools with these procedures
- report to the CPOG on summary data and on individual cases of schools that are found to be non-compliant with these procedures

- participate in CPOG, assisting officials in Schools Division in their engagement with schools, school boards of management and patrons as appropriate
- report, via Schools' Division, to Tusla where the Inspectorate becomes aware of instances where schools have not complied with Child Safeguarding Statement requirements.
- publish composite data and trends from inspection of the implementation of these procedures from time to time

9.13.2 Inspection models and activities

The Inspectorate will use a range of inspection models to monitor and report on the implementation of these procedures in schools.

In inspection and evaluation models which focus on specific aspects of a schools' provision, such as a subject inspection or a curriculum evaluation and in incidental inspections, inspectors will check the key aspects of these procedures. This will enable the Inspectorate to determine if the school has essential elements of these procedures in place, to report to the principal of the school and to the Department accordingly and to make decisions regarding the need for follow up actions.

In inspection and evaluation models which focus on more than one dimension of the work of a school, such as a whole-school type evaluation or an evaluation of a school at a High Support Unit, Child Detention Centre or Special Care Unit, inspectors will check the key aspects and some additional requirements of these procedures. This will enable the Inspectorate to determine if the school has both the essential elements and some additional elements of these procedures in place, to report to the principal and/or the board of the school and to the Department accordingly, and to make decisions regarding the need for follow up actions.

The Inspectorate will also conduct intensive, full-scale inspections in a sample of schools. These inspections will be focussed inspections of the implementation of the procedures and will typically be conducted during a model of inspection designed specifically for this purpose; i.e. a dedicated Child Protection and Safeguarding Inspection (CPSI).

In determining schools for a CPSI the Inspectorate will-

- select, as part of our risk-based approach to inspection, a sample of all schools in which to carry out these inspections annually.
- include schools referred to the Inspectorate by the CPOG or by the Department's Schools Division

CPSIs may be carried out with or without notice. As with other inspection reports, reports arising from CPSIs will be published in line with the provisions of *Guidelines on the Publication of School Inspection Reports* (September 2015) or the relevant equivalent.[1]

The Inspectorate may also examine the implementation of these procedures in Follow-Through inspections. These inspections evaluate and report on the extent to which schools implement recommendations arising from earlier inspections.

9.13.3 After the inspection

Normally, at the end of all evaluation visits the inspector(s) will inform the principal and/or the board whether or not he or she considers the school to be fully compliant with the aspects of the child protection procedures that were checked during the evaluation.

If the inspector considers that the school is not compliant with any of those aspects he or she will indicate the particular deficiencies and request that the principal and/or board ensure that they are addressed without delay, and if possible before the evaluation process is complete. As part of the advisory function of the Inspectorate, the inspector may also advise the school as to how best to address the deficiencies.

If the Inspectorate is not satisfied that the deficiencies have been addressed satisfactorily by the conclusion of the evaluation process, the Inspectorate will continue to engage with the school until the issues have been addressed. The Inspectorate may also decide to refer schools that are not compliant with the procedures to Schools' Division and/or to the CPOG.

The Inspectorate will maintain a record of all schools visited where any aspect of child protection was checked. For schools that were not compliant with particular aspects of these procedures a record will be kept of the aspects that they were not in compliance with and the date that the Inspectorate was informed that this issue was satisfactorily addressed.

The Inspectorate will report to Tusla, via Schools' Division, schools visited that did not have a child safeguarding statement in place.

In exceptional cases, the Inspectorate will immediately inform the Schools Division and/or the CPOG of serious deficiencies in a schools' compliance with these procedures prior to informing the principal and/or board of management.

The Inspectorate will also provide a quarterly report to the Management Board on the levels of compliance with these procedures in schools that were visited by the Inspectorate.

[1] The Inspectorate will publish a Guide to CPSIs as soon as feasible following the publication of these Procedures and following the consultation process required under Section 13(9)(8) of the Education Act, 1998.

9.13.4 Access to documentation

During school inspections, inspectors will require access to some or all of the documents and records that are required to be utilised and retained by the school under these procedures. Of particular importance are the documents available to the board of management for its oversight of reporting and safeguarding. Equally important are the minutes of board of management meetings that contain evidence that the board has carried out its governance responsibilities. The minutes shall document that the board of management has examined the relevant records and reached conclusions that confirm compliance with these procedures by the school; or where any non- compliance has been identified, the minutes should record the rectification or changed practice directed by the board.

Accordingly schools should have these documents, including minutes of board of management meetings, available in the school at all times and must make them available to the inspector(s) on request. If requested by an inspector, the school will make available case files to enable the Inspector to satisfy him or herself that the procedures have been adhered to.

9.13.5 The Child Protection Oversight Group

In all cases where the Department's Schools Division or the Inspectorate has serious concerns about a school's compliance with the requirements of these procedures the case will be referred to the CPOG which is comprised of members of the Inspectorate and officials from the Department's Schools Division.

Oversight by the Department's Child Protection Oversight Group (CPOG)

The CPOG will-

- Coordinate the Department's actions in cases where there are serious concerns regarding the compliance of a school with the requirements of these procedures
- Maintain records of schools referred to it, including records of how and when the cases are resolved
- Manage the Department's engagement with the board and/or patron of schools where serious weaknesses or systemic failures are identified by the Inspectorate and/or the Schools Division of the Department
- Receive regular reports from the Schools Division and the Inspectorate concerning the compliance or non-compliance of schools with the Procedures
- Ensure that all cases that are referred to the Department by Tusla or by An Garda Síochána will be pursued with the board and/or patron of the school as appropriate. In this regard the Department has agreed with Tusla contact

arrangements that will operate where Tusla wishes to alert the Department to concerns that it has in relation to compliance by an individual school.

9.14 Oversight by the Management Board of the Department

The management board of the Department will-

- Receive and review quarterly reports from the CPOG on the schools with whom CPOG are engaging
- Receive and review quarterly reports from the Inspectorate on the compliance noted by the Inspectorate during its visits to schools.
- Consider, at least annually, the overall effectiveness of the procedures in ensuring that schools are meeting their obligations under the Children First Act, 2015 and the Children First National Guidance 2017.

9.15 Role of Tusla in oversight

Under the Children First Act, 2015 a board of management is obliged to provide a copy of the school's Child Safeguarding Statement to Tusla when requested to do so.

The Children First Act, 2015 also provides that Tusla may establish and maintain a register of non-compliance detailing any providers of relevant services, including any schools that fail to provide a copy of the Child Safeguarding Statement to Tusla when requested to do so. Under the Act, Tusla must make the register available for inspection by the public at all reasonable times at its principal office.

The Department has also put in place a single point of contact whereby Tusla at national level can, having gone through an appropriate internal escalation process, bring to the attention of the Department any specific concerns Tusla may have regarding an individual school's compliance with child protection requirements.

9.16 Department of Children and Youth Affairs

In 2011, the Government established the Department of Children and Youth Affairs (DCYA) and brought together a number of key areas of policy and services for children, young people and families. DCYA has responsibility for developing the legislative and policy framework through which the child protection and welfare services are delivered, monitored, inspected and measured.

The Minister for Children and Youth Affairs has a number of obligations under the Children First Act, 2015. The Minister may issue guidelines about the protection and welfare of children. The *Children First: National Guidance for the Protection and Welfare of Children 2017* has been published to fulfil that requirement and is therefore deemed to be guidelines issued under section 6 of the Act. The Minister *may* also make regulations on Child Safeguarding Statements and the procedures for the making of reports by mandated persons. The Minister must also establish a Children First Interdepartmental Implementation Group and appoint the members and the chairperson.

9.17 Children First Interdepartmental Implementation Group

Part 4 of the Children First Act, 2015 provides for the establishment of the Children First Interdepartmental Implementation Group. The Implementation Group is a forum for members to raise child welfare and protection issues of general concern, or with a cross-departmental or cross-sectoral dimension across the various sectors.

The Minister for Children and Youth Affairs established this group and it is chaired by the Department of Children and Youth Affairs. Its membership is composed of nominated persons from each Government Department, plus a representative from Tusla – Child and Family Agency, An Garda Síochána and the Health Service Executive.

The functions of the Implementation Group are to-

1. Promote compliance by Government Departments with their obligations under the Act
2. Monitor the implementation by Government Departments of the guidelines issued by the Minister
3. Provide support to Government Departments regarding the preparation and publication of sectoral implementation plans
4. Promote a consistent approach by Government Departments to the preparation and publication of sectoral implementation plans
5. Report to the Minister, when requested, on the implementation of the Children First Act, 2015 and of the guidelines issued by the Minister
6. Provide information or advice, or make proposals, to the Minister on any of the above matters.

The Implementation Group must also submit an annual report on the performance of its functions and activities to the Minister for Children and Youth Affairs.

Appendix 1: Schedule of Mandated Persons under the Children First Act 2015

Schedule 2 of the Children First Act, 2015 specifies the following classes of persons as mandated persons for the purposes of this Act:

1. Registered medical practitioner within the meaning of section 2 of the Medical Practitioners Act 2007.

2. Registered nurse or registered midwife within the meaning of section 2(1) of the Nurses and Midwives Act 2011.

3. Physiotherapist registered in the register of members of that profession.

4. Speech and language therapist registered in the register of members of that profession.

5. Occupational therapist registered in the register of members of that profession.

6. Registered dentist within the meaning of section 2 of the Dentists Act 1985.

7. Psychologist who practises as such and who is eligible for registration in the register (if any) of members of that profession.

8. Social care worker who practises as such and who is eligible for registration in accordance with Part 4 of the Health and Social Care Professionals Act 2005 in the register of that profession.

9. Social worker who practises as such and who is eligible for registration in accordance with Part 4 of the Health and Social Care Professionals Act 2005 in the register (if any) of that profession.

10. Emergency medical technician, paramedic and advanced paramedic registered with the Pre-Hospital Emergency Care Council under the Pre-Hospital Emergency Care Council (Establishment) Order 2000 (S.I. No. 109 of 2000).

11. Probation officer within the meaning of section 1 of the Criminal Justice (Community Service) Act, 1983.

12. Teacher registered with the Teaching Council.

13. Member of An Garda Síochána.

14. Guardian *ad litem* appointed in accordance with section 26 of the Child Care Act, 1991.

15. Person employed in any of the following capacities:
    - (a) manager of domestic violence shelter;
    - (b) manager of homeless provision or emergency accommodation facility;
    - (c) manager of asylum seeker accommodation (direct provision) centre;
    - (d) addiction counsellor employed by a body funded, wholly or partly, out of moneys provided by the Oireachtas;
    - (e) psychotherapist or a person providing counselling who is registered with one of the voluntary professional bodies;
    - (f) manager of a language school or other recreational school where children reside away from home;
    - (g) member of the clergy (howsoever described) or pastoral care worker (howsoever described) of a church or other religious community;
    - (h) director of any institution where a child is detained by an order of a court;
    - (i) safeguarding officer, child protection officer or other person (howsoever described) who is employed for the purpose of performing the child welfare and protection function of religious, sporting, recreational, cultural, educational and other bodies and organisations offering services to children;
    - (j) child care staff member employed in a pre-school service within the meaning of Part VIIA of the Child Care Act, 1991;
    - (k) person responsible for the care or management of a youth work service within the meaning of section 2 of the Youth Work Act, 2001.

16. Youth worker who—
    - (a) holds a professional qualification that is recognised by the National Qualifications Authority in youth work within the meaning of section 3 of the Youth Work Act, 2001 or a related discipline, and
    - (b) is employed in a youth work service within the meaning of section 2 of the Youth Work Act, 2001.
17. Foster carer registered with the Agency.
18. A person carrying on a pre-school service within the meaning of Part VIIA of the Child Care Act, 1991.

Appendix 2: Sexual Offences as set out in the Children First Act 2015 [as amended by section 55 of the Criminal Law (Sexual Offences) Act 2017]

Schedule 3 of the Children First Act, 2015 sets out offences for the purposes of paragraph (a) of the definition of 'sexual abuse' in section 2 as:

1. Rape.
2. Rape under section 4 of the Criminal Law (Rape) (Amendment) Act 1990.
3. Sexual assault.
4. Aggravated sexual assault within the meaning of section 3 of the Criminal Law (Rape) (Amendment) Act 1990.
5. An offence under section 1 of the Punishment of Incest Act 1908 (incest by males).
6. An offence under section 2 of the Punishment of Incest Act 1908 (incest by females of or over 17 years of age).
7. An offence under section 6 (1) of the Criminal Law (Sexual Offences) Act 1993 (soliciting or importuning for purposes of commission of sexual offence).
8. An offence under section 2 of the Criminal Law (Sexual Offences) Act 2006 (defilement of child under 15 years of age).
9. An offence under section 3 of the Criminal Law (Sexual Offences) Act 2006 (defilement of child under 17 years).

9A. An offence under section 3A of the Criminal Law (Sexual Offences) Act 2006 (offence by person in authority).

10. An offence under either of the following provisions of the Child Trafficking and Pornography Act 1998:
    (a) section 3 (child trafficking and taking, etc., child for sexual exploitation);
    (b) section 4 (allowing child to be used for child pornography);
    (c) section 4A (organising etc. child prostitution or production of child pornography);
    (d) section 5A (participation of child in pornographic performance).

11. An offence under section 5 of the Criminal Law (Human Trafficking) Act 2008 in so far as it relates to a child who has been trafficked for the purpose of his or her exploitation (soliciting or importuning for purposes of prostitution of trafficked person).

12. An offence under section 176 of the Criminal Justice Act 2006 (reckless endangerment of children).

13. An offence under section 249 of the Children Act 2001 (causing or encouraging sexual offence upon a child).

14. An offence under any of the following provisions of the Criminal Law (Sexual Offences) Act 2017:
    (a) section 4 (invitation etc. to sexual touching);
    (b) section 5 (sexual activity in the presence of child);
    (c) section 6 (causing child to watch sexual activity);
    (d) section 8 (use of information and communication technology to facilitate sexual exploitation of child).

Appendix 3: Protocol authorising immediate action

The following protocol authorises immediate action under section 7.2 of the 'Child Protection Procedures for Primary and Post Primary Schools 2017'.

Primary schools other than primary schools under the patronage of an ETB

In the context of these procedures, where circumstances warrant it, as an essential precautionary measure in order to protect the children in the school, the chairperson of the Board of Management is authorised by the school authority to direct an employee to immediately absent himself or herself from the school without loss of pay until the matter has been considered by the employer. It is very important to note that the action under the protocol is intended to be precautionary and not disciplinary. The action under this protocol is an interim measure pending the employer's consideration of the matter.

The employee will be invited to a meeting with the chairperson of the board of management, the purpose of which is to inform the employee of the allegation and the action being taken. The employee may be accompanied by an appropriate person of his or her choice and will be so advised.

In any event, the employee will also be advised of the matter, in writing.

The chairperson of the board of management shall also make a record of the meeting which shall be retained on the relevant case file.

Post-Primary schools and primary schools under the patronage of an ETB

(A) In the context of these procedures, where circumstances warrant it, as an essential precautionary measure in order to protect the children in the school, the school principal is authorised by the school management authority to direct an employee to immediately absent himself or herself from the school without loss of pay until the matter has been considered by the employer. It is very important to note that the action under the protocol is intended to be precautionary and not disciplinary. The action under this protocol is an interim measure pending the employer's further consideration of the matter.

The employee will be invited to a meeting with the principal, the purpose of which is to inform the employee of the allegation and the action being taken. The employee may be accompanied by an appropriate person of his or her choice and will be so advised.

In any event, the employee will also be advised of the matter, in writing.

The principal shall make a record of the meeting which shall be retained on the relevant case file.

(B) In the case of a school or college under the aegis of ETB, the decision to absent an employee in the circumstances outlined at (A) above will be taken by the Chief Executive of the ETB or a person to whom this authority has been delegated.

Appendix 4: Summary of record keeping requirements

This appendix contains a summary of the main record-keeping requirements set out in these procedures as follows-

- Section 3.4 sets out requirements on individual members of school personnel to record child protection concerns that they may have, including disclosures from children and any actions taken in respect of same.
- Section 5.1.1 requires that the DLP shall make a written record of any concern brought to his or her attention by a member of school personnel and shall place this record in a secure location.
- Section 5.3.3 requires that in all cases where the DLP has sought the advice of Tusla the DLP shall retain a record of the consultation which will note the date, the name of the Tusla official and the advice given.
- Section 3.4.4 requires that the DLP shall retain a copy of every report submitted by him or her to Tusla and shall keep a record of any further actions taken by the DLP and of any further communications with Tusla, An Garda Siochana or other parties in relation to that report.
- Section 3.4.5 requires that all records created shall be regarded as highly confidential and placed in a secure location.
- Section 3.4.6 requires that to allow for the effective recording and tracking of relevant records and actions, child protection case files and any parties referenced in such files shall be assigned a unique code or serial number by the DLP. In this context "parties" means any party whose identity, if disclosed, might lead to the identification of a child or a person against whom an allegation has been made.
- Section 9.4 requires that a Child Protection Oversight Report must be provided to the board of management, as part of the principal's report to the board, at every board of management meeting. The information that shall be provided in this report is set out at sections 9.5 to 9.8 of these procedures.
- Sections 9.5, 9.6 and 9.7 provide that the minutes of board of management meetings shall record child protection matters by reference to the unique code or serial number assigned to the case/parties concerned.
- Section 5.3.6 requires that where the DLP informs a parent/carer that a report concerning his or her child is being made, a record shall be made of the information communicated by the DLP to the parent/carer. It also requires that a decision by the DLP not to inform a parent/carer shall be recorded together with the reasons for not doing so.
- Section 5.3.8 requires that if the DLP decides that the concern of the member of school personnel, including that of a registered teacher, should not be reported to Tusla the DLP shall give the member of school personnel a clear statement, in writing, as to the reasons why action is not being taken. A copy of this statement shall be retained by the DLP. Where that member of school personnel decides to make a report to Tusla, he or she must provide the DLP with a copy of that report.

- Section 5.6 requires that where the DLP issues a notification to a parent in accordance with that section, a copy of that notification shall be retained by the DLP.
- Section 3.5.4 requires the board of management to ensure that arrangements are in place to ensure that the deputy DLP can access relevant records when required.
- Section 8.13.6 requires that records of the annual review of the school's Child Safeguarding Statement and its outcome shall be retained and made available, if requested, to the patron and/or the Department.

The above is not intended to be an exhaustive list of the record keeping requirements in these procedures and school personnel should ensure that records are maintained in line with the requirements set out in these procedures.