

Child Protection / Vulnerable Adult Statement

January 2022



It is the policy of Scripts Ireland's Playwriting Festival to safeguard the welfare of all children and vulnerable adults. We will endeavour to make sure that they are protected and kept safe while they are with the employees and volunteers of this organisation.

This document replaces the previous Child Protection Policy (version dated 2019) with effect from 1 January 2022

This policy is in line with the Children First: National Guidance for Protection and Welfare of Children 2017. The national guidelines should be referred to when reading this policy for further guidelines.
<https://www.dcy.gov.ie/documents/publications/20171002ChildrenFirst2017.pdf>

Criminal Justice Act 2006

Section 176 of the Criminal Justice Act 2006 introduced the criminal charge of 'reckless endangerment of children'. It states:

'A person, having authority or control over a child or abuser, who intentionally or recklessly endangers a child by –

- (a) causing or permitting any child to be placed or left in a situation which 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, is guilty of an offence.'

The penalty for a person found guilty of this offence is a fine (no upper limit) and/or imprisonment for a term not exceeding 10 years.

Appendix List

Appendix 1 - Definitions and Recognition of Child Abuse per Child First National Guidelines 2017

Appendix 2 - A full list of Child Protection & Welfare Policy Relevant Legislation

Section 1 – Policy Statement

It is the policy of Scripts Ireland’s Playwriting Festival to safeguard the welfare of all children & vulnerable adults. We will endeavour to make sure that they are protected and kept safe while they are with the employees and volunteers of this organisation.


The company acknowledges the rights of children & vulnerable adults to be protected, treated with respect, listened to and have their own view taken into consideration.

The Designated Officer to deal with any complaints or children & vulnerable adults protection issues is the Emma Nee Haslam (Festival Co-Producer). Any concerns should be raised directly with this person.

We have implemented procedures covering:

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

The policy will be reviewed on: (date)..... *January 2023*.....

Signed by Designated Person: ... 

Date: ...*18/01/2022*.....

Section 2 - Code of Behaviour for Staff

The code of behaviour can be categorised under the following headings:

1. Child-centred approach
2. Good practice
3. Inappropriate behaviour
4. Physical contact
5. Health and safety

1. Child-centred approach

It is the policy of Scripts Ireland's Playwriting Festival to:

- ◆ Treat all children, young people and vulnerable adults equally;
- ◆ Listen to and respect children, young people and vulnerable adults;
- ◆ Involve children, young people and vulnerable adults in decision-making, as appropriate;
- ◆ Provide encouragement, support and praise (regardless of ability);
- ◆ Use appropriate language (physical and verbal);
- ◆ Have fun and encourage a positive atmosphere;
- ◆ Offer constructive criticism when needed;
- ◆ Treat all children, young people and vulnerable adults as individuals;
- ◆ Respect children, young people and vulnerable adults personal space;
- ◆ Discuss boundaries on behaviour and related sanctions, as appropriate, with children, young people and vulnerable adults and their primary carers;
- ◆ Agree facilitator 'contract' before beginning session;
- ◆ Encourage feedback from group and same;
- ◆ Use age-appropriate teaching aids and materials;
- ◆ Lead by example;
- ◆ Be aware of children, young people and vulnerable adults other commitments when scheduling rehearsals or activities, e.g., school or exams;
- ◆ Be cognisant of a children, young people and vulnerable adults limitations, due to a medical condition for example;
- ◆ Create an atmosphere of trust;
- ◆ Respect differences of ability, culture, religion, race and sexual orientation.

2. Good practice – Safe management of activities

In accordance with good practice it is our intention to:

- ◆ Register each child/young person for each workshop/summer camp that they participate on. Information recorded to include: name, address, age, phone, special requirements, attendance, emergency contact while attending Scripts Ireland's Playwriting Festival. The following question will also be on registration forms: *Do you consent to your child being photographed during activity/ies at the venue for the purpose of in-house records that from time to time may be made available to funders to show record of activities or for publicity purposes.* Registration will be carried out at time of booking or at box office prior to participation at the workshop/summer camp. The above is also relevant where workshops are provided for vulnerable adults.
- ◆ Make primary carers, children/young people, visitors and facilitators aware of this Policy and procedures;
- ◆ Make all staff aware of emergency procedures and regularly update same;
- ◆ Be inclusive of children, young people and vulnerable adults with special needs;
- ◆ Plan and be sufficiently prepared, both mentally and physically;
- ◆ Report any concerns to the Designated Person and follow reporting procedures;
- ◆ Encourage children, young people and vulnerable adults to report any bullying, concerns or worries;
- ◆ Observe appropriate dress and behaviour;
- ◆ Evaluate work practices on a regular basis;
- ◆ Provide appropriate training for staff and volunteers;
- ◆ Report and record any incidents and accidents;
- ◆ Update and review policies and procedures regularly;
- ◆ Keep primary carers informed of any issues that concern children, young people and vulnerable adults;
- ◆ Ensure proper supervision based on adequate ratios according to age, abilities and activities involved;
- ◆ Ensure clear communication between artist and organisations; have written record of agreements;
- ◆ Have a written agreement with any external organisation that an artist is working with;
- ◆ Not be passive in relation to concerns, i.e., don't 'do nothing';
- ◆ Not let a problem get out of control;
- ◆ Ensure sessions are not taken alone. If this is not possible then it should be in an open environment with the full knowledge and consent of primary carers;

- ◆ Avoid, if at all possible, giving a lift to a children, young people and vulnerable adults and if you do make sure that primary carers are informed;
- ◆ Maintain awareness around language and comments made. If you think that something you said may have caused offence or upset, then try to address it in a sensitive manner.

3. Inappropriate behaviour

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

4. Physical contact

- ◆ Seek consent of children/young people/vulnerable adults in relation to physical contact (except in an emergency or a dangerous situation);
- ◆ Avoid horseplay or inappropriate touch;
- ◆ Check with children/young people/vulnerable adults about their level of comfort when doing touch exercises.

5. Health and safety

- ◆ Don't leave children unattended or unsupervised; (young people/vulnerable adults – as appropriate depending on situation);
- ◆ Manage any dangerous materials;
- ◆ Provide a safe environment;
- ◆ Staff should be aware of accident procedure and follow accordingly.

Recognising Abuse

See Appendix 1 - for *Types of Child Abuse and How They May Be Recognised*

Section 3 – Reporting Procedures

Who to contact about issues related to child/vulnerable adult protection and welfare

Emma Nee Haslam, Manager is the designated person to contact if you have an issue or concern about any aspect of a children/young people/vulnerable adults safety and welfare. It is her responsibility to support and advise staff about policy and procedures and to ensure that procedures are followed. It is also her responsibility to liaise with the Health Service Executive, TUSLA or Gardaí where appropriate.

Emma Nee Haslam can be contacted at 057 9122893 or 086 6024432.

Angela Ryan White (Festival Co-producer) has been designated as deputy to the designated officer and can be contacted at 086 3638758.

The following excerpt from *Children First: National Guidelines for the Protection and Welfare of Children* (4.3.2 - p.38) shows what would constitute reasonable grounds for concern:

- (i) specific indication from the child or young person that s/he has been abused;
- (ii) an account by a person who saw the child/young person being abused;
- (iii) evidence, such as an injury or behaviour, which is consistent with abuse and unlikely to be caused another way;
- (iv) an injury or behaviour which is consistent both with abuse and with an innocent explanation but where there are corroborative indicators supporting the concern that it may be a case of abuse [an example of this would be a pattern of injuries, an implausible explanation, other indications of abuse, dysfunctional behaviour];
- (v) consistent indication, over a period of time, that a child is suffering from emotional or physical neglect.

Recording procedures

Employees or volunteers with the organization may come across actual or suspected children/young people/vulnerable adults abuse in the course of their work. They are advised to raise this concern with the designated officer/mandated person who will keep a written record of the concern and refer it to Tusla, if appropriate.

Staff should record the following information in relation to children/young people/vulnerable adults:

- ◆ Suspicions;
- ◆ Concerns;
- ◆ Worrying observations;
- ◆ Behavioural changes;
- ◆ Actions and outcomes.

While it is important for workers to be alert to signs of children/young people/vulnerable adults abuse, it is also important not to create an environment of intense anxiety where everyone is suspicious all the time.

The actual decision whether abuse is likely to have happened must be left to the professionals. It is important that everyone in the company is aware that the person who first encounters a case of alleged or suspected abuse is not responsible for deciding whether or not abuse has occurred. Under no circumstances should an individual member of staff or volunteer of the company attempt to deal with a concern alone.

Reports are held in an incident book separate to that of the Health & Safety incident book.

Dealing with a disclosure

- ◆ Stay calm and listen to the children/young people/vulnerable adults, allow him or her enough time to say what s/he needs to say;
- ◆ Don't use leading questions or prompt details;
- ◆ Reassure the children/young people/vulnerable adults but do not promise to keep anything secret; Any complaint must be raised with the designated officer/mandated person and the child should be informed of this. The child should be assured of discretion at all times.
- ◆ Don't make the children/young people/vulnerable adults repeat the details unnecessarily;
- ◆ Explain to the children/young people/vulnerable adults what will happen next (explanation should be age/level of understanding-appropriate).

Retrospective disclosure

- ◆ In the case of a retrospective disclosure, the company will follow the guidelines as set out in the Child First National Guidance 2017 / TUSLA.

Reporting procedures

It is the designated officers duty to report any suspected information to TUSLA without delay. In an emergency, a report must be made directly to An Garda Síochána.

- ◆ The person who expresses the concern should be involved and kept informed;
- ◆ Actions and outcomes should be noted;
- ◆ Inform the Designated Person or his or her deputy, if unavailable;

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- ◆ Record all details, including the date, time and people involved in the concern or disclosure and the facts in the incident book. Information recorded should be factual. Any opinions should be supported by facts;
 - ◆ The most appropriate person should discuss the concern or consult with primary carers. Parents, carers or responsible adults should be made aware of a report to TUSLA unless it is likely to put the children/young people/vulnerable adults at further risk;
 - ◆ The Designated Person may contact the TUSLA for an informal consultation prior to making a report;
 - ◆ Information will be shared on a strictly 'need to know' basis
 - ◆ If there are reasonable grounds for concern as outlined above, the designated person will contact the TUSLA using the standard reporting form available from them.
 - ◆ If the Designated Person or Deputy Designated Person is not available, staff and volunteers are advised to contact TUSLA directly;
 - ◆ In case of emergencies outside of TUSLA hours, contact the Gardaí. In situations that threaten the immediate safety of a children/young people/vulnerable adults, it may be necessary to contact the Gardaí.

Section 4 - Confidentiality Statement

We at Scripts Ireland's Playwriting Festival are committed to ensuring peoples' rights to confidentiality. However, in relation to child/vulnerable adults protection and welfare we undertake that:

- ◆ Information will only be forwarded on a 'need to know' basis in order to safeguard the children/young people/vulnerable adults;
- ◆ Giving such information to others for the protection of a children/young people/vulnerable adults is not a breach of confidentiality;
- ◆ We cannot guarantee total confidentiality where the best interests of the children/young people/vulnerable adults are at risk;
- ◆ Primary carers, children/young people/vulnerable adults have a right to know if personal information is being shared and/or a report is being made to TUSLA, unless doing so could put the children/young people/vulnerable adults at further risk;
- ◆ Images of a children/young people/vulnerable adults will not be used for any reason without the consent of the parent/carer (however, while we request it, we cannot guarantee that cameras/videos will not be used at public performances);
- ◆ Procedures will also be put in place for the recording and storing of information in line with our confidentiality policy.

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- ♦ Records will be stored in the Managers Office or on Managers PC with file passwords to ensure constant confidentiality.

Section 5 - Recruiting and Selecting Staff

All staff who will have or are likely to have contact with children/young people/vulnerable adults should undergo a recruitment process in line with the following procedures and appropriate to their level of contact with children and young people.

Recruitment and selection policy statement

We will ensure that staff are carefully selected, trained and supervised to provide a safe environment for all children and young people, by observing the following principles:

- ♦ Roles and responsibilities will be clearly defined (paid or voluntary);
- ♦ We will endeavour to select the most suitably qualified personnel;
- ♦ Candidates will be asked to submit a self declaration form;
- ♦ No person who would be deemed to constitute a 'risk' will be employed (paid or voluntary);
- ♦ Some of the exclusions would include:
 - any child-related convictions;
 - refusal to sign application form and declaration form;
 - insufficient documentary evidence of identification;
 - concealing information on one's suitability to working with children;
- ♦ There will be a relevant probationary period (normally 3 months) as specified in contract of employment;
- ♦ Staff Garda Vetting will be required where a need for vetting is identified i.e. when an individual has regular and ongoing contact with a child.
- ♦ All staff will be required to complete the TULSA online Child Protection Training <https://www.tusla.ie/children-first/children-first-e-learning-programme/>

Section 6 - Managing and supervising staff and volunteers

Staff and volunteers management policy statement

To protect both staff (paid and voluntary) and children/young people/vulnerable adults, we undertake that:

New staff/volunteers will:

- ◆ Be made aware of the organisation's code of conduct, child/vulnerable adult protection procedures, and the identity and role of who has been designated to deal with issues of concern;
- ◆ Undergo a probationary or trial period.

All staff & volunteers will:

- ◆ Receive an adequate level of supervision and review of their work practices;
- ◆ Be expected to have read and signed the Child Protection/Vulnerable Adult Policy Statement;

Section 7 – Involvement of primary carers

Policy statement on the involvement of primary carers

We are committed to being open with all primary carers. We undertake to:

- ◆ Advise primary carers of our child/vulnerable adult protection policy in a summary document advising of the accessibility of the full document;
- ◆ Issue registration/consent forms where relevant;
- ◆ Comply with health and safety practices;
- ◆ Operate child-centred policies in accordance with best practice;
- ◆ Adhere to our recruitment guidelines;
- ◆ Ensure as far as possible that the activities are age-appropriate;
- ◆ Encourage and facilitate the involvement of parent(s), carer(s) or responsible adult(s), where appropriate.

If we have concerns about the welfare of the children/young people/vulnerable adults, we will:

- ◆ Respond to the needs of the child/young person/vulnerable adult;
- ◆ Inform the primary carers on an on-going basis unless this action puts the child or young person at further risk;

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- ♦ Where there are child protection and welfare concerns we are obliged to pass these on to the TUSLA and, in an emergency, the Gardaí;
 - ♦ In the event of a complaint against a member of staff, we will immediately ensure the safety of the child/young people/vulnerable adult and inform primary carers as appropriate.

As a child-centred organisation, we are committed to putting the interest of the children/young people/vulnerable adults first. To that end we will:

- ♦ Contact local TUSLA and Gardaí where there is a child protection welfare concern;
- ♦ Encourage primary carers to work in partnership with us under the guidelines set out by our organisation to ensure the safety of their children/young people/vulnerable adults;
- ♦ Have a designated contact person available for consultation with primary carers in the case of any concern over a children/young people/vulnerable adults welfare.

Section 8 - Dealing with allegations against staff

In the event of allegations being made against an employee (staff or voluntary), the protection of the child/young person/vulnerable adult is the first and paramount consideration. The organisation has a dual responsibility in respect of both the children/young people/vulnerable adults and employee. The same person must not have responsibility for dealing with the children/young people/vulnerable adults welfare issues and the staff employment issues.

Dealing with an allegation against staff

Two separate procedures must be followed:

1. In respect of the child/young person the Designated Person or Deputy Designated Person (whom ever appropriate) will deal with issues related to the children/young people/vulnerable adults.
2. In respect of the person against whom the allegation is made the Staff Sub Group will deal with issues related to the staff member.
3. Disciplinary and Grievance Procedures as specifically laid out in the Company Handbook which is provided to all staff will be followed.
4. If a serious allegation of inappropriate behaviour is made against an employee and is found to be true it will result in the immediate dismissal of that employee as specifically laid out in the Company Handbook provided to all staff.

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- ◆ The first priority is to ensure that no children/young people/vulnerable adult is exposed to unnecessary risk;
 - ◆ If allegations are made against the Designated Person, then the Deputy Designated Person should be contacted who will inform the Chairperson of the Board immediately ;
 - ◆ The reporting procedures outlined in Section 3 of these guidelines should be followed. Both the primary carers and child/young person/vulnerable adults should be informed of actions planned and taken. The child/young person/vulnerable adults should be dealt with in an age-appropriate manner;
 - ◆ The staff member will be informed as soon as possible
 - of the nature of the allegation;
 - the staff member should be given the opportunity to respond;
 - ◆ Any action following an allegation of abuse against an employee should be taken in consultation with Health Service Executive and Gardaí;
 - ◆ After consultation, the chairperson/head of organisation should advise the person accused and agreed procedures will be followed.

Section 9 - Complaints and Comments Procedures

In the event of complaints or comments:

- ◆ Complaints or comments will be responded to within 4 weeks;
- ◆ The Designated Officer (Deputy Designated Officer) as named above has responsibility for directing complaints/comments to the appropriate person;
- ◆ Verbal complaints will be logged, recorded and responded to.

Section 10 - Accidents procedure

Accidents procedure

- ◆ The organisation must maintain an up-to-date register of the contact details of all children/young people/vulnerable adults involved in the organisation;
- ◆ Child/young person/vulnerable adults details should be cross-referenced between the incident book and file;
- ◆ External organisations with whom the organisation has dealings must provide proof that they have public liability insurance;
- ◆ First-aid boxes are available and regularly re-stocked; Staff, volunteers and workshop facilitators need to be aware of there whereabouts.
- ◆ Availability of first-aid should be in accordance with the organisation's Health and Safety guidelines. The location of accident/incident books must be made known to staff;

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- ♦ Children/young people /vulnerable adults must be advised of risks of dangerous material if applicable;
 - ♦ Take cognisance of responsibility for first-aid on off-site trips.

Protection of Persons Reporting Child Abuse Act, 1998

The Protection of Persons Reporting Child Abuse Act, 1998 came into operation on 23 January 2009. It's main provisions are:

The provision of immunity from civil liability of any person who reports child abuse "reasonably and in good faith" to designated officers of health boards or any member of the Garda Síochána.

The provision of significant protections for employees who report child abuse. These protections cover all employees and all forms of discrimination up to and including, dismissal.

The creation of a new offence of false reporting of child abuse where a person makes a report of child abuse to the appropriate authorities "known that statement to be false". This is a new criminal offence designated to protect innocent person from malicious reports.

SCRIPTS IRELAND'S PLAYWRITING FESTIVAL

Self Declaration Form

CONFIDENTIAL

To be completed by volunteers and employees of the company working with children/young people/vulnerable adults.

First Name:	Surname:
Date of Birth:	Place of Birth:
Address:	
Tel No:	Mobile No:
Any other name(s) previous known as:	

Is there any reason that you would be considered unsuitable to work with children/young people/vulnerable adults:

YES NO

If yes, please outline the reason below:

Have you ever been convicted of a criminal offence? YES NO

If yes, please state below the nature and date(s) of the offence(s)?

Signed: _____ Date: _____

APPENDIX 1

Definitions and Recognition of Child Abuse per Child First National Guidelines 2017

Child Abuse: What Is It? How do I Recognise It? How do I Report It?

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

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

TYPES OF CHILD ABUSE AND HOW THEY MAY BE RECOGNISED

Child abuse can be categorised into four different types: neglect, emotional abuse, physical abuse and sexual abuse. A child may be subjected to one or more forms of abuse at any given time. Abuse and neglect can occur within the family, in the community or in an institutional setting. The abuser may be someone known to the child or a stranger, and can be an adult or another child. In a situation where abuse is alleged to have been carried out by another child, you should consider it a child welfare and protection issue for both children and you should follow child protection procedures for both the victim and the alleged abuser.

The important factor in deciding whether the behaviour is abuse or neglect is the impact of that behaviour on the child rather than the intention of the parent/carer. The definitions of neglect and abuse presented in this section are not legal definitions. They are intended to describe ways in which a child might experience abuse and how this abuse may be recognised.

Neglect

Child neglect is the most frequently reported category of abuse, both in Ireland and internationally. Ongoing chronic neglect is recognised as being extremely harmful to the development and well-being of the child and may have serious long-term negative consequences.

Neglect occurs when a child does not receive adequate care or supervision to the extent that the child is harmed physically or developmentally. It is generally defined in terms of an omission of care, where a child's health, if you think a child is in immediate danger and you cannot contact Tusla, you should contact the Gardaí without delay. In this Guidance, 'a child' means a person under the age of 18 years, who is not or has not been married. National Guidance for the Protection and Welfare of Children development or welfare is impaired by being deprived of food, clothing, warmth, hygiene, medical care, intellectual stimulation or supervision and safety. Emotional neglect may also lead to the child having attachment difficulties. The extent of the damage to the child's health, development or welfare is influenced by a range of factors. These factors include the extent, if any, of positive influence in the child's life as well as the age of the child and the frequency and consistency of neglect.

Neglect is associated with poverty but not necessarily caused by it. It is strongly linked to parental substance misuse, domestic violence, and parental mental illness and disability.

A reasonable concern for the child's welfare would exist when neglect becomes typical of the relationship between the child and the parent or carer. This may become apparent where you see the child over a period of time, or the effects of neglect may be obvious based on having seen the child once.

The following are features of child neglect:

- Children being left alone without adequate care and supervision
- Malnourishment, lacking food, unsuitable food or erratic feeding
- Non-organic failure to thrive, i.e. a child not gaining weight due not only to malnutrition but also emotional deprivation
- Failure to provide adequate care for the child's medical and developmental needs, including intellectual 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

Emotional abuse

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

A reasonable concern for the child's welfare would exist when the behaviour becomes typical of the relationship between the child and the parent or carer.

Emotional abuse may be seen in some of the following ways:

- Rejection
- Lack of comfort and love
- Lack of attachment
- Lack of proper stimulation (e.g. fun and play)
- Lack of continuity of care (e.g. frequent moves, particularly unplanned)
- Continuous lack of praise and encouragement
- Persistent criticism, sarcasm, hostility or blaming of the child
- Bullying
- Conditional parenting in which care or affection of a child depends on his or her behaviours or actions
- Extreme overprotectiveness
- Inappropriate non-physical punishment (e.g. locking child in bedroom)
- Ongoing family conflicts and family violence
- Seriously inappropriate expectations of a child relative to his/her age and stage of development

There may be no physical signs of emotional abuse unless it occurs with another type of abuse. A child may show signs of emotional abuse through their actions or emotions 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.

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 National Guidance for the Protection and Welfare of Children 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. The result of this is that the protections in law relating to assault now apply to a child in the same way as they do to an adult.

Sexual abuse

Sexual abuse occurs when a child is used by another person for his or her gratification or arousal, or for that of others. It includes the child being involved in sexual acts (masturbation, fondling, oral or penetrative sex) or exposing the child to sexual activity directly or through pornography.

Child sexual abuse may cover a wide spectrum of abusive activities. It rarely involves just a single incident and in some instances occurs over a number of years. Child sexual abuse most commonly happens within the family, including older siblings and extended family members.

Cases of sexual abuse mainly come to light through disclosure by the child or his or her siblings/friends, from the suspicions of an adult, and/or by physical symptoms.

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

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 exemptions for mandated reporting of certain cases of underage consensual sexual activity can be found in Chapter 3 of this Guidance

Circumstances which may make children more vulnerable to harm

If you are dealing with children, you need to be alert to the possibility that a welfare or protection concern may arise in relation to children you come in contact with. 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 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 harm.

The following list is intended to help you identify the range of issues in a child's life that may place them at greater risk of abuse or neglect.

It is important for you to remember that the presence of any of these factors does not necessarily mean that a child in those circumstances or settings is being abused.

- **Parent or carer factors:**

- » Drug and alcohol misuse
- » Addiction, including gambling
- » Mental health issues
- » Parental disability issues, including learning or intellectual disability
- » Conflictual relationships
- » Domestic violence
- » Adolescent parents

- **Child factors:**

- » Age
- » Gender
- » Sexuality
- » Disability
- » Mental health issues, including self-harm and suicide
- » Communication difficulties
- » Trafficked/Exploited
- » Previous abuse
- » 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 or willingness of parents/guardians to engage:**
 - » Non-attendance at appointments
 - » Lack of insight or understanding of how the child is being affected
 - » Lack of understanding about what needs to happen to bring about change
 - » Avoidance of contact and reluctance to work with services
 - » Inability or unwillingness to comply with agreed plans

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

BULLYING

It is recognised that bullying affects the lives of an increasing number of children and can be the cause of genuine concerns about a child's welfare.

Bullying can be defined as repeated aggression – whether it is verbal, psychological or physical – that is conducted by an individual or group against others. It is behaviour that is intentionally aggravating and intimidating, and occurs mainly among children in social environments such as schools. It includes behaviours such as physical aggression, cyberbullying, damage to property, intimidation, isolation/exclusion, name calling, malicious gossip and extortion. Bullying can also take the form of abuse based on gender identity, sexual preference, race, ethnicity and religious factors. With developments in modern technology, children can also be the victims of non-contact bullying, via mobile phones, the internet and other personal devices.

While bullying can happen to any child, some may be more vulnerable. These include: children with disabilities or special educational needs; those from ethnic minority and migrant groups; from the Traveller community; lesbian, gay, bisexual or transgender (LGBT) children and those perceived to be LGBT; and children of minority religious faiths.

There can be an increased vulnerability to bullying among children with special educational needs. This is particularly so among those who do not understand social cues and/or have difficulty communicating. Some children with complex needs may lack understanding of social situations and therefore trust everyone implicitly. Such children may be more vulnerable because they do not have the same social skills or capacity as others to recognise and defend themselves against bullying behaviour.

Bullying in schools is a particular problem due to the fact that children spend a significant portion of their time there and are in large social groups. In the first instance, the school authorities are responsible for dealing with such bullying.

School management boards must have a code of behaviour and an anti-bullying policy in place. If you are a staff member of a school, you should also be aware of your school's anti-bullying policy and of the relevant guidelines on how it is handled.

In cases of serious instances of bullying where the behaviour is regarded as possibly abusive, you may need to make a referral to Tusla and/or An Garda Síochána

APPENDIX 2

Child Protection & Welfare Policy - Relevant Legislation

Relevant legislation

There are a number of key pieces of legislation that relate to child welfare and protection. The information here gives a brief overview of relevant legislation. It is not intended as legal opinion or advice and, if in doubt, you should consult the original legislation.

CHILD CARE ACT 1991

This is the key piece of legislation which regulates child care policy in Ireland. Under this Act, Tusla has a statutory responsibility to promote the welfare of children who are not receiving adequate care and protection. If it is found that a child is not receiving adequate care and protection, Tusla has a duty to take appropriate action to promote the welfare of the child. This may include supporting families in need of assistance in providing care and protection to their children. The Child Care Act also sets out the statutory framework for taking children into care, if necessary.

PROTECTIONS FOR PERSONS REPORTING CHILD ABUSE ACT 1998

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

CRIMINAL JUSTICE ACT 2006

Section 176 of this Act created an offence of reckless endangerment of children. This offence may be committed by a person who has authority or control over a child or abuser who intentionally or recklessly endangers a child by:

1. Causing or permitting the child to be placed or left in a situation that creates a substantial risk to the child of being a victim of serious harm or sexual abuse; or
2. Failing to take reasonable steps to protect a child from such a risk while knowing that the child is in such a situation.

CRIMINAL JUSTICE (WITHHOLDING OF INFORMATION ON OFFENCES AGAINST CHILDREN AND VULNERABLE PERSONS) ACT 2012

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

NATIONAL VETTING BUREAU (CHILDREN AND VULNERABLE PERSONS) ACTS 2012–2016

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

CHILDREN FIRST ACT 2015

The Children First Act 2015 is an important addition to the child welfare and protection system as it will help to ensure that child protection concerns are brought to the attention of Tusla without delay. The Act provides for mandatory reporting of child welfare and protection concerns by key professionals; comprehensive risk assessment and planning for a strong organisational culture of safeguarding in all services provided to children; a provision for a register of non-compliance; and the statutory underpinning of the existing Children First Interdepartmental Implementation Group which promotes and oversees cross-sectoral implementation and compliance with Children First.

CRIMINAL LAW (SEXUAL OFFENCES) ACT 2017

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