



Child and Youth Protection Policy

Updated March 2021

1. Introduction

SpunOut is fully committed to safeguarding the well being of all children and young people that we work with.

The SpunOut Child and Youth Protection Policy is a set of best practice guidelines aimed at providing a safe environment for young service users and young volunteers. The policy also aims to safeguard and support SpunOut.ie's staff and volunteers when they are working with children and young people. This policy acts as a template for best practice in how staff, Board Members, sponsors, partners, volunteers and members of the Action Panel (often collectively referred to in this policy document as "staff") behave when working with young people and children. The policy applies to all work processes, including face to face, online and remote communications. It also applies to all interaction between staff and children or young people regardless of where it takes place.

It is important to read the Policy carefully in order to understand the level of protection both provided and expected.

This policy has been designed in accordance with child protection legislation, the *Children First Act 2015* and *Children First: National Guidance for the Protection and Welfare of Children* (DCYA, 2017), which outlines the existing non-statutory obligations that operate administratively for all sectors of society. Consideration has also been given to *Our Duty to Care – The Principles of Good Practice for the Protection of Children and Young People*, (DCYA, 2002).

SpunOut.ie is committed to Children First as it relates to the recognition of child abuse and neglect, the reporting of same to Tusla and the best practice which organisations should adhere to keep children safe while availing of our services.

2. Policy Statement

SpunOut.ie believes that all young people have the right to access non-judgmental information and support services, which are accessible, inclusive and youth-friendly. SpunOut.ie believes that young people are entitled to the full respect, protection and promotion of their human rights and fundamental freedoms. In providing information to young people, Spunout.ie adopts a rights-based approach and integrates the norms, standards and principles of the international human rights system into the development, implementation and evaluation of its policies.

The human rights based approach means that SpunOut.ie:

- Empowers young people to claim, exercise and defend their rights and fulfil their responsibilities through active participation in society;
- Actively works against discrimination of young people on age or any other grounds, and towards ensuring the full inclusion of youth within society.

The protection of children and young people is a national and international requirement. The UN Convention on the Rights of the Child upholds the best interests of children and says that “children have the right to be protected from all forms of violence”.

Management, staff and volunteers in SpunOut.ie recognise that the welfare of children and young people is paramount and will endeavour to safeguard young people by:

- Having procedures to recognise, respond to and report concerns about children’s protection and welfare;
- Having a confidentiality policy;
- Having a code of behaviour for management, employees and volunteers;
- Having a recruitment procedure;
- Having procedures for managing/supervising employees and volunteers;
- Having a procedure for responding to accidents and incidents;
- Having a complaints procedure and
- Having procedures to respond to allegations of abuse and neglect against staff members.

SpunOut.ie’s Child and Youth Protection Policy, procedures and practices will be reviewed on an annual basis.

Meaning of Child and Young Person

For the purposes of this policy, and consistent with the *Better Outcomes, Brighter Futures: The national policy framework for children and young people 2014-2020*, “child” and “young person” are defined as follows:

- Child: Any person under the age of 18 years, in line with the United Nations Convention on the Rights of the Child.
- Young Person: Any person under 25 years of age in line with the upper age threshold of the Youth Work Act 2001 and in line with the definition used by the United Nations.

Geographical boundaries of this policy

This policy applies to all work processes, including fact to face, online and remote communications. It also applies to all interaction between staff and children or young people regardless of where it takes place.

Principles of Best Practice

- The safety and welfare of children and young people are of paramount importance.
- A proper balance must be struck between protecting children and respecting the rights and needs of parents/guardians/carers and families, while understanding that if there is a conflict, the safety of the child comes first.
- Children and young people have a right to be heard, listened to, treated with respect and taken seriously.
- Having due regard to their age, gender, background and understanding, children and young people should be consulted and involved in all matters and decisions which may affect their lives.
- Parents/guardians/carers have a right to respect and should be consulted and involved in matters concerning their family.
- Co-operation with the Child & Family Agency, other child protection agencies/services and professionals is vital to ensuring children's safety.
- Records of all incidents occurring during contact hours between staff, volunteers, students and children will be maintained appropriately.
- Staff, volunteers and students coming into contact with children and young people will be provided with appropriate training in child protection.
- All staff, and volunteers and students where relevant, will be Garda vetted in accordance with the Community Creations Vetting Policy under which SpunOut.ie falls.
- A minimum of two staff members will supervise work experience volunteers under the age of 18.

3. Legislative Provisions

This policy has been designed in accordance with child protection legislation, including the following:

Child Care Act 1991

The purpose of the act is to “up-date the law in relation to the care of children who have been assaulted, ill-treated, neglected or sexually abused or who are at risk”. The main provisions of the act are:

- The placing of a statutory duty on the H.S.E to promote the welfare of children who are not receiving adequate care and protection up to the age of 18 (Sec. 3.1)
- The strengthening of the powers of the H.S.E to provide childcare and family support services.
- The improvement of the procedures to facilitate immediate intervention by H.S.E and An Garda Síochana where children are in danger.
- The revision of provisions to enable the courts to place children, who have been assaulted, ill-treated, neglected or sexually abused or who are at risk, in the care of or under the supervision of H.S.E.
- The introduction of arrangements for the supervision and inspection of pre-school services.
- The revision of provisions in relation to the registration and inspection of residential centres for children.

Protection for Persons Reporting Child Abuse Act 1998

The main provisions of the 1998 Act are:

- The provision of immunity from civil liability to any person who reports Child Abuse “reasonably and in good faith” to designated officers of Health Service Executive or any member of An Garda Síochana.
- 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 “knowing that statement to be false”. This is a new criminal offence designed to protect innocent persons from malicious reports.

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:

- 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
- 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

The Act creates an offence of withholding information in relation to specified offences, including (but not limited to) murder, manslaughter, false imprisonment, rape, sexual assault and incest, committed against a child or 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 be of material assistance in securing the apprehension, prosecution or conviction of another person for that offence and fails without reasonable excuse to disclose that information to the Gardaí.

National Vetting Bureau (Children and Vulnerable Persons) Act 2012

The Act provides the legislative basis for the mandatory vetting of persons who wish to undertake certain work or activities, including in a voluntary capacity, relating to children or vulnerable persons or to provide certain services to children or vulnerable persons.

- Any work or activity which is carried out by a person, a necessary and regular part of which consists mainly of the person having access to, or contact with, children or vulnerable adults.

To comply with the legislation SpunOut.ie must vet everyone who falls into this category. Not everyone has to be or can be vetted, each position will be assessed in accordance with the Act and in line with SpunOut.ie's Garda Vetting Policy.

The Children First Act 2015

The policy intent is that the *Children First Act 2015* will operate side-by-side with the existing non-statutory obligations provided for in *Children First: National Guidance for the Protection and Welfare of Children (2017)*. The *Children First Act 2015* put elements of the *Children First National Guidance* on a statutory footing and provides for a number of key child protection measures:

- A requirement on organisations providing services to children to keep children safe and for 'relevant services' to produce a Child Safeguarding Statement;
- A requirement on defined categories of persons (mandated persons) to report child protection concerns over a defined threshold to the Child and Family Agency (the Agency);
- A requirement on mandated persons to assist the Agency in the assessment of a child protection risk, if so requested to do so by the Agency;
- Provisions of the Act ensure that concerns about children are brought to the attention of the Agency without delay and improve the quality of reports made to the Agency and the quality of follow up on concerns.

Criminal Law (Sexual Offences) Act 2017

The Act enhances and updates laws to combat the sexual exploitation and sexual abuse of children, including new offences relating to child sexual grooming and new and strengthened offences to tackle child pornography. The Act also criminalises the purchase of sexual services, introduces new provisions regarding the giving of evidence by victims in sexual offence trials and introduces a new offence addressing public indecency. Other provisions include maintaining the age of consent to sexual activity at 17 years of age and for a new “proximity of age” defence as well as a statutory statement of the law as regards consent to sexual acts.

Additional Related Policies/Documents having a bearing on Child Protection

- Health and Safety Policy
- Garda Vetting Policy and Procedures
- Recruitment Policy
- Volunteer Policy
- Data Protection Policy
- Social Media Guidelines
- Employee Handbook

4. Recruitment, Vetting and Selection Procedures

SpunOut.ie takes all reasonable steps to ensure that only suitable people are recruited to work for the organisation. A recruitment and selection policy is in place which ensures robust mechanisms are used for ensuring that individuals with the correct expertise and suitability are selected.

All prospective candidates are required to consent to Garda Vetting. Successful candidates' vetting information is held on file for the duration of the employment. All staff and Directors are re-vetted every 3 years.

A robust induction process is in place for new employees, students and volunteers. All policies and procedures are provided as part of the induction process. This includes SpunOut.ie's Child Protection Policies and Procedures.

5. Organisational Support, Supervision and Training

All staff and volunteers must carefully read this policy, along with the Child Safeguarding Statement and Procedures for Recognising, Responding and Reporting, to ensure they understand and accept the responsibilities and procedures set out within. The most up to date policies and procedures will be made accessible to staff at any time, and staff will be made aware of any policy changes during the year.

Staff will be provided with relevant training to encourage professional development and best practice. All staff are required to complete Tusla's online child protection training.

The Designated Liaison Person and Deputy Designated Liaison person will be provided with the relevant training to ensure they have sufficient knowledge to perform their role.

6. Role of Designated Liaison Person and Reporting Procedures

6.1 Role of Designated Liaison Person

The Designated Liaison Person (DLP) acts as a liaison with outside agencies and a resource person to any child protection concern from staff or volunteers of SpunOut.ie. The DLP is responsible for reporting any child protection concerns to TUSLA; The Child and Family Agency / An Garda Síochána. The DLP records all concerns or allegations of child abuse brought to his or her attention and the actions taken in relation to a concern or allegation of child abuse.

SpunOut.ie has a standard reporting procedure for dealing with disclosures, concerns or allegations of abuse. SpunOut.ie has appointed a DLP and Deputy DLP to whom child protection concerns can be reported.

DLP: Nicole Forster 0860783544 nicole@text50808.ie	Deputy: Timmy Hammersley 0861029153 timmy@spunout.ie
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6.2 Information on definitions of abuse as per Children First

All staff and volunteers must familiarise themselves with the four categories of child abuse (neglect, emotional abuse, physical abuse, and sexual abuse) and their descriptions in *Children First: National Guidance*, 2017. Attention should also be given to the definition of bullying and factors that can increase a child's vulnerability to bullying (see Appendix I).

6.3 Information on reasonable grounds for concern

Children First: National Guidance, 2017 states that: 'Tusla should always be informed when a person has reasonable grounds for concern that a child may have been, is being, or is at risk of being abused or neglected.' See Appendix II.

Reasonable grounds for a child protection or welfare concern include:

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

Where the DLP or Deputy DLP is unsure whether there are reasonable grounds for concern, they can contact the relevant Tusla Duty Social Work Team informally for advice and guidance: <http://www.tusla.ie/get-in-touch/duty-social-work-teams/>

6.4 Reporting Procedures

All staff and volunteers should follow the procedures in this section when they have a concern that a child has been, is being, or is at risk of being abused, harmed or neglected.

- If a child is in immediate danger and you cannot contact the DLP, Deputy DLP or CEO, you should contact a Tusla Duty Social Worker and/or An Garda Síochána without delay.
- Similarly, in the event of an emergency, the DLP can contact Tusla directly and, if a Tusla Duty Social Worker is unavailable, the DLP will contact An Garda Síochána.

Contact Details:	
Tusla Duty Social Work	http://www.tusla.ie/get-in-touch/duty-social-work-teams/
An Garda Síochána	https://www.garda.ie/en/Contact-Us/

- Otherwise, please bring your concern directly to the DLP;
- Where possible, discuss the concern with them in person;
- If the DLP is off-site but working, please get in touch by phone;
- If your call is not answered, please email dlp@spunout.ie (without detail) to flag the need to discuss a child protection concern. If you do not believe the DLP to be currently capable of responding, email timmy@spunout.ie instead. If neither the DLP nor the Deputy DLP are capable of responding, contact the CEO at ian@spunout.ie. If your concern is about the CEO, contact the Chair of the Board John McNamara at john.mcnamara@spunout.ie. Do not outline the concern at this stage. It's best that a conversation take place first.
- Based on your conversation, the DLP or other officer will decide if a report will be made to Tusla;
- If a report is to be made to Tusla, you are required to provide details of the disclosure to the DLP. You are also required to work with them to submit a report to Tusla, and liaise with the person who made the disclosure, and possibly their family/guardians.
- Once this has been sent, you must delete all details of the disclosure from your documents, trash, sent and deleted email items, google drive etc. This is an important step in the interests of confidentiality and data protection and it is your responsibility to do this;
- Please remember, the fact of you having a child protection concern or needing to talk to the DLP is not a matter of confidence. Rather, you need to ensure that no personal or identifying information about the concern is discussed beyond you and the DLP;
- Where it is decided to make a report to Tusla, the report will be made **jointly**. By you (using your written account) and co-signed by the DLP who is responsible for coordination, writing and sending the report;
- As the first named reporter, you may receive correspondence from Tusla directly. Please bring all correspondence to the DLP so that it can be filed and stored appropriately;
- In addition to a report to Tusla, if there is a criminal or suspected criminal aspect to the child protection concern, An Garda Síochána will be notified by the DLP as appropriate.

6.5 Emergency Situations

If a child is in immediate danger and you cannot contact the DLP, Deputy DLP or CEO, you should contact a Tusla Duty Social Worker directly. If a Tusla Duty Social Worker is unavailable, contact An Garda Síochána without delay.

Similarly, in the event of an emergency, the DLP can contact Tusla directly and, if a Tusla Duty Social Worker is unavailable, the DLP will contact An Garda Síochána.

Contact Details:	
Tusla Duty Social Work	http://www.tusla.ie/get-in-touch/duty-social-work-teams/
An Garda Síochána	https://www.garda.ie/en/Contact-Us/

6.6 Child protection concerns that are not reported to Tusla

If the DLP decides not to report a concern to Tusla, the following steps will be taken:

- The reasons for not reporting will be recorded;
- Any actions taken as a result of the concern should be recorded;
- The staff member or volunteer who raised the concern should be given a clear written explanation of the reasons why the concern is not being reported to Tusla;
- The staff member or volunteer must be advised that if they remain concerned about the situation, they are free to make a report in their individual capacity to Tusla or An Garda Síochána. Please use the reporting form <http://www.tusla.ie/children-first/publications-and-forms/#SRP>.

The Protections for Persons Reporting Child Abuse Act, 1998 will apply to any staff member or volunteer who wishes to make a report to Tusla.

6.7 Exemptions from requirements to report

Underage consensual sexual activity

Under the Criminal Law (Sexual Offences) Act 2006 the legal age of consent is 17 years. While a sexual relationship where one or both parties is under 17 years of age is illegal, when making a report to Tusla, it might not be regarded as child sexual abuse.

- There are certain exemptions from reporting underage consensual sexual activity under section 14(3) of the Children First Act 2015. If you are satisfied that **all of the following criteria are met**, you are **not required** to make a report to Tusla:
 - The young person(s) concerned are between 15 and 17 years old;
 - The age difference between them is not more than 24 months;
 - There is no material difference in their maturity or capacity to consent;
 - The relationship between the people engaged in the sexual activity does not involve intimidation or exploitation of either person;
 - The young persons concerned state clearly that they do not want any information about the activity to be disclosed to Tusla.

Concerns developed outside of professional duties

The legal obligation to report under the Act applies only to information that you acquire in the course of your professional work or employment. It does not apply to information you acquire

outside your work, or information given to you on the basis of a personal rather than a professional relationship.

6.8 Informing Parents / Guardians about child protection and welfare concerns

- Parents/guardians have a right to respect, and should be consulted and involved in matters that concern their family.
- A proper balance must be struck between protecting children and respecting the rights and needs of parents/guardians and families.
- Parents will always be informed if a report is to be made to Tusla by the DLP unless doing so would further endanger the child, impair Tusla's ability to carry out a risk assessment or put the reporter at risk of harm. The DLP may seek guidance from Tusla Duty Social Work in relation to this.

6.9 Guidelines in relation to dealing with a disclosure

- **While acting on behalf of SpunOut.ie on the premises of another organisation:** A disclosure may be made to you directly by a child or you may observe a concern about a parent, guardian or a member of staff of another organisation. You need to ascertain on-site who the organisation's DLP is and disclose your concern to them directly and confidentially. You should advise them that you will also be bringing your concern to SpunOut.ie's DLP, who will follow our own procedures in determining whether a report will be made to Tusla. Depending on the situation, where appropriate, the SpunOut.ie DLP will liaise with the other organisation's DLP and advise them on what action we have taken.

If a parent, guardian, or any member of staff of another organisation engages in a conversation with you during your visit and you feel a disclosure of a child protection concern is being made you need to stop them and advise them clearly that you cannot maintain their confidence. You are legally obliged to take any disclosure/concern of a child protection nature to the organisation's and SpunOut.ie's DLP, who will determine whether it is appropriate to report it to Tusla. If they continue to make a concern known, please follow the steps above.

- **In the course of a telephone call:** If you think a person is about to make a disclosure stop them and advise them clearly that you cannot maintain their confidence. You are legally obliged to take any disclosure/concern of a child protection nature to your DLP, where our own procedures will be followed in determining whether a report will be made to Tusla. If they continue to make a concern known, and if possible (e.g. by calling them back) please continue the conversation in a closed office to maximise confidentiality.
- **In the course of training:** As above.

6.10 Responding to a retrospective disclosure from an adult about abuse as a child

A retrospective disclosure is a disclosure from an adult about abuse that happened while they were a child.

If a retrospective disclosure is made, the DLP must report the concern to Tusla without delay using the Retrospective Abuse Report Form:

https://www.tusla.ie/uploads/content/Retrospective_Abuse_Report_Form_FINAL.pdf

6.11 Mandated Persons

Under the Children First Act 2015, 'mandated persons' have a statutory obligation to report concerns which reach a threshold (as defined in section 2 of the Children First Act 2015) to Tusla. Mandated persons are people who have contact with children and/or families and who, because of their qualifications, training and/or employment role, are in a key position to help protect children from harm. For more information on mandated persons see Appendix III.

7. Procedure for Dealing with Allegations Against Staff or Volunteers

If an allegation of abuse or neglect is made against a staff member or a volunteer within SpunOut.ie, there are two separate procedures which will be followed. SpunOut.ie must have due regard for the rights and interests of the child on the one hand, and those of the person against whom the allegation is made on the other.

7.1 Reporting procedure in respect of the child

The DLP is responsible for reporting the matter to Tusla as per the reporting procedure.

7.2 Procedure for dealing with the employee or volunteer

The employer is responsible for addressing the employment issues. As SpunOut.ie is governed by the Board of Directors of Community Creations CLG (the “Board”), the Board will be included in this process. Where Community Creations, as the employer, becomes aware of an allegation of abuse by an employee while executing their duties, the organisation will privately inform the employee of the following:

- The fact that an allegation has been made against them
- The nature of the allegation.

The employee will be afforded the opportunity to respond, the response will be noted and passed onto Tusla with the formal report. All stages of the process will be recorded.

An investigation may be required and which will be carried out by the nominated person within SpunOut.ie. In some instances, independent, external parties may be called upon. Protective measures may be required while the allegation is being investigated. The principles of natural justice, the presumption of innocence and fair procedures should be adhered to. It is very important to note that protective measures are intended to be precautionary and not disciplinary.

Regardless of whether the matter is being reported to Tusla, SpunOut.ie will always be informed of an allegation of abuse or neglect against an employee.

SpunOut.ie will maintain regular and close liaison with Tusla and/or An Garda Síochána and ensure that no action by the organisation frustrates or undermines any investigation.

Further action will be guided by employment legislation, the contract of employment, the other policies and procedures of the service (including the disciplinary policy) and the advice of the investigating agencies.

8. Record Keeping, Access and Storage of Information

8.1 Written Records

Written records will be kept of all child protection concerns (including those not reported to Tusla) and these will be managed by the DLP. Information will include: details of the concern, who raised it, who was contacted, details re: informal consultation, any action taken, details re: informing parents. See Appendix III for more information.

All records and information relating to child protection and welfare concerns will be stored in a secure location i.e. in a locked filing cabinet or a secure Dropbox folder and will be accessible only to the DLP and Deputy DLP.

Records relating to child protection and welfare issues will be kept indefinitely.

8.2 Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012

Staff and volunteers must also be aware that it is a criminal offence to withhold information about specified offences including (but not limited to): murder; manslaughter; false imprisonment; rape; sexual assault; incest, and child pornography, committed 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.

It is a defence under the Withholding legislation for a person not to disclose information about a specified offence committed against a child or vulnerable person to An Garda Síochána in limited circumstances.

Regarding a child:

- The child is 14 years of age or older;
- They have clearly expressed their view that the offence or information relating to it should **not** be disclosed to An Garda Síochána;
- They have the capacity to form this view;
- That you (the accused) knew of their view and relied on it.

Regarding a vulnerable person:

- Only applies to persons vulnerable due to physical impairment or injury;
- They have clearly expressed their view that the offence or information relating to it should **not** be disclosed to An Garda Síochána;
- They have the capacity to form this view;
- That you (the accused) knew of their view and relied on it.

There is no statute of limitations in relation to Withholding of Information and as such any decision by a member of staff or volunteer not to disclose a specified offence as set out above must:

- Obtain the view of the child or vulnerable person in writing;
- Produce a written record setting out your decision and rationale, including a consideration of the best interests of the child or vulnerable person in question.

Relevant records will be stored in a secure location i.e. in a locked filing cabinet and will be kept indefinitely.

9. Confidentiality and Sharing of Information

Confidentiality is about managing sensitive information in a manner that is respectful, professional and purposeful. All information provided to SpunOut.ie by a child or young person, volunteer or staff member must be treated in a confidential manner.

All information regarding a Child Protection concern or suspected case of Child Abuse must be only shared on a 'need to know basis' and always in the best interests of the child's general welfare and safety. The subject should never be discussed with other persons in the organisation, including staff, volunteers or young people if they are not directly involved.

Sharing information with the DLP is not considered to be a breach of confidentiality. All information should be shared with the DLP in accordance with the procedure outlined in section 5.4 of this policy (Reporting Procedures).

All staff and volunteers should be aware that ensuring Child Protection is only possible in the organisation if all staff and volunteers share relevant information where appropriate. To ensure robust child protection, the organisation must work in partnership with Tusla and the Gardaí.

10. Guidelines for Interagency Working

As child protection is a multi-agency activity, SpunOut.ie will work in partnership with Tusla and An Garda Síochána to ensure that relevant information is shared.

The DLP will be the person who will liaise with statutory agencies responsible for child protection and welfare.

Appendix I: Recognising Types of Child Abuse

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

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

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

Neglect

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

Neglect occurs when a child does not receive adequate care or supervision to the extent that the child is harmed physically or developmentally. It is generally defined in terms of an omission of care, where a child's health, development or welfare is impaired by being deprived of food, clothing, warmth, hygiene, medical care, intellectual stimulation or supervision and safety. Emotional neglect may also lead to the child having attachment difficulties. The extent of the damage to the child's health, development or welfare is influenced by a range of factors. These factors include the extent, if any, of positive influence in the child's life as well as the age of the child and the frequency and consistency of neglect.

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

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

The following are features of child neglect:

- Children being left alone without adequate care and supervision
- Malnourishment, lacking food, unsuitable food or erratic feeding
- Non-organic failure to thrive, i.e. a child not gaining weight due not only to malnutrition but also emotional deprivation

- Failure to provide adequate care for the child's medical and developmental needs, including intellectual 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 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.

Examples of child sexual abuse include the following:

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

An Garda Síochána will deal with any criminal aspects of a sexual abuse case under the relevant criminal justice legislation. The prosecution of a sexual offence against a child will be considered within the wider objective of child welfare and protection. The safety of the child is paramount and at no stage should a child's safety be compromised because of concern for the integrity of a criminal investigation.

In relation to child sexual abuse, it should be noted that in criminal law the age of consent to sexual intercourse is 17 years for both boys and girls. Any sexual relationship where one or both parties are under the age of 17 is illegal. However, it may not necessarily be regarded as child sexual abuse. Details on exemptions for mandated reporting of certain cases of underage consensual sexual activity can be found in Chapter 3 of Children First: National Guidance for the Protection and Welfare of Children.

Appendix II: Reasonable Grounds for Concern

You should always inform Tusla when you have reasonable grounds for concern that a child may have been, is being, or is at risk of being abused or neglected. If you ignore what may be symptoms of abuse, it could result in ongoing harm to the child. It is not necessary for you to prove that abuse has occurred to report a concern to Tusla. All that is required is that you have reasonable grounds for concern. It is Tusla's role to assess concerns that are reported to it. If you report a concern, you can be assured that your 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, for example an injury or behaviour, that is consistent with abuse and is unlikely to have been caused in any other way
- Any concern about possible sexual abuse
- Consistent signs that a child is suffering from emotional or physical neglect
- A child saying or indicating by other means that he or she has been abused
- Admission or indication by an adult or a child of an alleged abuse they committed
- An account from a person who saw the child being abused

Appendix III: Mandated Persons

Schedule 2 of the Children First Act 2015 specifies the following classes of persons as Mandated Persons for the purposes of the 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.

More information in relation to Mandated Persons can be found on pp 19-28 of Children First 2017.