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## *New Horizon – Child Safeguarding Statement - September 2018*

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### **1. Glossary of Terms**

“Assault” in relation to a child, means when someone deliberately hurts a child physically or puts him/her at risk of being physically hurt. It may occur as a single incident or as a pattern of incidents.

“Child” means a person under the age of 18 years of age other than a person who is or has been married.

“Designated Liaison Person” (“DLP”) means a person appointed by New Horizon in accordance with the 2017 National Guidance. For the purpose of this Child Safeguarding Statement, the DLP will also be the Relevant Person.

“Harm” means in relation to a child-

- assault, ill-treatment or neglect of the child, in a manner that seriously affects or is likely to seriously affect the child’s health, development or welfare, or
- sexual abuse of the child, whether caused by a single act, omission or circumstance or a series or combination of acts, omissions or circumstances, or otherwise.

“Ill-treatment” means in relation to a child, to abandon or cruelly treat the child, or causing or procuring or allowing the child to be abandoned or cruelly treated.

“Mandated Person” (“MP”) means a person, appointed by New Horizon, who is specified in Schedule 2 of the 2015 Act.

“Mandated Report” means a report made by a mandated person in accordance with Sections 14(1) & 14(2) of the 2015 Act.

“Neglect” means, in relation to a child, to deprive the child of adequate food, warmth, clothing, hygiene, supervision, safety or medical care.

“Non-Mandated Persons” (“NMPs”) means, for the purpose of this Child Safeguarding Statement, any person appointed by New Horizon other than a Mandated Person.

“Non-Mandated Report” means any report made to Tusla in accordance with this Child Safeguarding Statement and/or the National Guidance, other than a mandated report.

“Physical Abuse” in this Child Safeguarding Statement has the same meaning as assault.

“Relevant Person” (“RP”) means the person appointed by New Horizon as the relevant person in accordance with Section 8 of the 2015 Act and who will be the first point of contact in respect of this Child Safeguarding Statement. As mentioned above, for the purpose of this Child Safeguarding Statement, the Relevant Person will also be the DLP.

“Sexual Abuse” means in relation to a child, the offences specified in Schedule 3 of the 2015 Act.

The “2015 Act” refers to the Children First Act 2015, as amended.

The “2017 Guidance” refers to “Children First: National Guidance for the Protection and Welfare of Children”, issued by the Department of Children and Youth Affairs in 2017.

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

## 2. Nature of Service

2.1 New Horizon provides support and services to asylum seekers and refugee living in Westmeath. This work may involve contact with persons under the age of 18. Therefore, New Horizon falls within the definition of an organisation that provides relevant services to children as outlined in Schedule 1 of the 2015 Act.

2.2 The purpose of this Child Safeguarding Statement is to ensure that allegations of child abuse and neglect are reported in accordance with relevant legislation and to provide a clear framework for managing such reports in order to assist and support staff and to protect children.

2.3 New Horizon will uphold the fundamental principle that the welfare of the child is the paramount concern in all matters involving children.

2.4 Any new activity involving children will be risk assessed by the organiser of the activity in question.

2.5 New Horizon will maintain and develop links with Tusla and An Garda Síochána in order to promote child protection and welfare policies and practices.

### Relevant Services

Schedule 1 of the 2015 Act defines Relevant Services as:

1. 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 in—
  - a) an establishment which provides early years services within the meaning of Part VIIA of the Child Care Act 1991,
  - b) a school or centre of education, both within the meaning of the Education Act 1998,
  - c) any hospital, hospice, health care centre or other centre which receives, treats or otherwise provides physical or mental health services to children,
  - d) a designated centre within the meaning of section 2 of the Health Act 2007, in so far as it relates to an institution at which residential services are provided in accordance with the Child Care Act 1991 or to children with disabilities in relation to their disabilities,
  - e) a special care unit provided and maintained in accordance with section 23K of the Child Care Act 1991,
  - f) a children detention school within the meaning of section 3 of the Children Act 2001,
  - g) a reception or accommodation centre which provides residential accommodation services to applicants for asylum under contract to the Department of Justice and Equality where children may be accommodated, or
  - h) a centre which provides residential accommodation services to victims of domestic violence where children may be accommodated.
2. Any work or activity which consists of the inspection of a service provided to a child under the Child Care Act 1991, the Education Act 1998, the Children Act 2001 or the Health Act 2007.
3. Any work or activity which consists of the inspection, examination or investigation by the Office of the Ombudsman for Children under the Ombudsman for Children Act 2002.
4. Any work or activity which consists of treatment (including assessment which may lead to treatment), therapy or counselling provided to a child.

5. Any work or activity which consists of the provision of—
  - a) educational, research, training, cultural, recreational, leisure, social or physical activities to children,
  - b) care or supervision of children, or
  - c) formal consultation with, or formal participation by, a child in respect of matters that affect his or her life, whether or not for commercial or any other consideration.
6. Any work or activity which consists of the provision of advice or guidance services (including by means of electronic interactive communications), a necessary and regular part of which consists, mainly, of the person having access to, or contact with, children.
7. Any work or activity as a minister or priest or any other person engaged in the advancement of any religious beliefs which would or could bring that minister, priest or other person, as the case may be, into contact with a child.
8. Any work or activity as a driver of, or as an assistant to the driver, or as a conductor, or as a supervisor of children using a vehicle which is being hired or used only for the purpose of conveying children who are unaccompanied by a parent or guardian.
9. Any work or activity which is carried out by a member of An Garda Síochána, a necessary and regular part of which consists mainly of the person having access to, or contact with, children.

### **3. Relevant Law**

The following laws, policies and publications were taken into account when developing this Child Safeguarding Statement:

- i. Data Protection Acts 1988 and 2003;
- ii. Child Care Act, 1991;
- iii. Child Trafficking and Pornography Act 1998;
- iv. Protection for Persons Reporting Child Abuse Act 1998;
- v. Safety, Health and Welfare at Work Act, 2005;
- vi. Criminal Justice Act 2006;
- vii. Criminal Justice (Withholding of Information on Offences Against Children and Vulnerable Persons) Act 2012
- viii. National Vetting Bureau (Children & Vulnerable Persons) Act 2012-2016
- ix. Child and Family Agency Act 2013;
- x. Protected Disclosures Act 2014;
- xi. Freedom of Information Act 2014 (as amended);
- xii. Children First Act 2015;
- xiii. Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016;
- xiv. Criminal Law (Sexual Offences) Act 2017;
- xv. The Children First National Guidance for the Protection and Welfare of Children 2017;
- xvi. The Children First Support Documents including the following:
  - a. A Guide for the Reporting of Child Protection and Welfare Concerns;
  - b. Best Practice principles for Organisations in Developing Children First Training Programmes;
  - c. Guidance on Developing a Child Safeguarding Statement; and Mandated Assisting Protocol for Tusla Staff.

#### **4. Aims and Objectives of the Child Safeguarding Statement**

4.1 In furtherance of the purpose of this Child Safeguarding Statement, as stated at 2.2 above, New Horizon is committed to ensuring its compliance with its statutory obligations under the 2015 Act and the 2017 Guidance by:

4.1.1 ensuring, to the greatest extent possible, the safety of children availing of the New Horizon's services;

4.1.2 undertaking an assessment of any potential for harm to children while they are availing of a service from New Horizon;

4.1.3 displaying this Child Safeguarding Statement in accordance with Section 11 of the 2015 Act;

4.1.4 clarifying the roles and responsibilities of New Horizon volunteers;

4.1.5 making available a copy of this Child Safeguarding Statement to New Horizon volunteers and members of the public and, where requested, to stakeholders including Tusla;

4.1.6 setting out procedures to enable New Horizon to deal with child protection concerns;

4.1.7 training New Horizon members to make informed decisions in relation to child protection concerns;

4.1.8 advising New Horizon members on their legal responsibilities in relation to child protection matters; and

4.1.9 ensuring that information relating to child protection concerns is only shared in a manner which is in accordance with the requirements of the 2015 Act and related legislation listed in Part 3 above.

## 5. **Child Abuse: Definition and Threshold** (as per Chapter 2 of the 2017 Guidance)

### 5.1 Neglect

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.

The threshold of harm at which an MP must make a mandated report to Tusla is reached when s/he knows, believes or has reasonable grounds to suspect that a child's needs have been neglected, are being neglected, or are at risk of being neglected to the point where the child's health, development or welfare have been or are being seriously affected, or are likely to be seriously affected.

### 5.2 Emotional Abuse/Ill-Treatment

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.

The threshold of harm, at which an MP must make a mandated report to Tusla is reached when s/he knows, believes or has reasonable grounds to suspect that a child has been, is being, or is at risk of being ill-treated to the point where the child's health, development or welfare have been or are being seriously affected, or are likely to be seriously affected.

### 5.3 Physical Abuse

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

The threshold of harm, at which an MP must make a mandated report to Tusla is reached when s/he knows, believes or has reasonable grounds to suspect that a child has been, is being, or is at risk of being assaulted and that as a result the child's health,

development or welfare have been or are being seriously affected, or are likely to be seriously affected.

#### 5.4 Sexual Abuse

Sexual abuse occurs when a child is used by another person for his or her gratification or arousal, or for that of others. It includes the child being involved in sexual acts (masturbation, fondling, oral or penetrative sex) or exposing the child to sexual activity directly or through pornography. Child sexual abuse may cover a wide spectrum of abusive activities. It rarely involves just a single incident and in 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.

A threshold does not apply as all sexual abuse falls within the category of seriously affecting a child's health, welfare or development. If an MP knows, believes or has reasonable grounds to suspect that a child has been, is being, or is at risk of being sexually abused, then the MP must make a mandated report to Tusla. Sexual abuse is an offence against the child as specified in Schedule 3 of the 2015 Act

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



While serious sexual activity between persons who are under 17 years of age is illegal, 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 2015 Act. If the DLP and MP are satisfied that all of the following criteria are met, s/he will not be 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

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

1. Rape.
2. Rape under section 4 of the Criminal Law (Rape) (Amendment) Act 1990.
3. Sexual assault.
4. Aggravated sexual assault within the meaning of section 3 of the Criminal Law (Rape) (Amendment) Act 1990.
5. An offence under section 1 of the Punishment of Incest Act 1908 (incest by males).
6. An offence under section 2 of the Punishment of Incest Act 1908 (incest by females of or over 17 years of age).
7. An offence under section 6(1) of the Criminal Law (Sexual Offences) Act 1993 (soliciting or importuning for purposes of commission of sexual offence).
8. An offence under section 2 of the Criminal Law (Sexual Offences) Act 2006 (defilement of child under 15 years of age).
9. An offence under section 3 of the Criminal Law (Sexual Offences) Act 2006 (defilement of child under 17 years).
- 9A. An offence under section 3A of the Criminal Law (Sexual Offences) Act 2006 (offence by person in authority).
10. An offence under either of the following provisions of the Child Trafficking and Pornography Act 1998:
  - a) section 3 (child trafficking and taking, etc., child for sexual exploitation);
  - b) section 4 (allowing child to be used for child pornography);
  - c) section 4A (organising etc. child prostitution or production of child pornography);
  - d) section 5A (participation of child in pornographic performance).

11. An offence under section 5 of the Criminal Law (Human Trafficking) Act 2008 in so far as it relates to a child who has been trafficked for the purpose of his or her exploitation (soliciting or importuning for purposes of prostitution of trafficked person).
12. An offence under section 176 of the Criminal Justice Act 2006 (reckless endangerment of children).
13. An offence under section 249 of the Children Act 2001 (causing or encouraging sexual offence upon a child).
14. An offence under any of the following provisions of the Criminal Law (Sexual Offences) Act 2017:
  - a) section 4 (invitation etc. to sexual touching);
  - b) section 5 (sexual activity in the presence of child);
  - c) section 6 (causing child to watch sexual activity).

## **6. Roles and Responsibilities**

6.1 This Child Safeguarding Statement applies to all New Horizon volunteers and it is the duty of each volunteer to comply with this Child Safeguarding Statement.

6.2 The responsibility for the implementation of this Child Safeguarding Statement rests with the Trustees of New Horizon.

6.3 It is the responsibility of each Trustee to ensure that each volunteer is made aware of their obligations under this Child Safeguarding Statement.

6.4 New Horizon shall appoint a DLP who will:

- provide guidance in relation to child protection concerns;
- act as a liaison between New Horizon and Tusla and An Garda Síochána;
- ensure that mandated and non-mandated reporting procedures are followed, so that cases of child abuse and neglect are referred promptly to Tusla and/or to An Garda Síochána;
- record all allegations of child abuse and neglect brought to his/her attention;
- record all actions taken in relation to allegations of child abuse and neglect;
- seek informal advice from Tusla where there is any doubt as to whether or not a matter should be reported to Tusla and/or as to whether or not a mandated report should be made;
- record the reasons where a decision is made not to report an allegation;
- where the DLP is of the view that a report does not need to be made, the DLP should inform the MP that it is open to the MP to seek informal advice from Tusla and/or to report his/her concern and/or to make a mandated report where s/he still considers that such a report is warranted;
- where the DLP is of the view that a report does not need to be made, but the MP decides to make a report, the DLP shall request a copy of the report from the MP and note on the report why a report was not made by the DLP;
- ensure that s/he is knowledgeable about child protection and undertakes any training considered necessary to keep updated on new developments; and
- uphold the fundamental principle that the welfare of the child is the paramount concern.

6.5 In accordance with this Child Safeguarding Statement, an MP shall, when making a mandated report, inform the DLP that a report has been made.

6.6 A Deputy Designated Liaison Person (the “DDLDP”) will be appointed to assume the responsibilities of the DLP if the DLP is unavailable or unable to act for any reason. Any references in this document to the DLP should also be read as applying to the DDLDP, as appropriate.

6.7 The statutory obligation to report mandated concerns in accordance with the 2015 Act rests with MPs and not with the DLP.

6.8 Pursuant to this Child Safeguarding Statement, MPs are required:

- to inform the DLP as part of the reporting structure of any allegations, suspicions or disclosures of child abuse or neglect;
- when making a mandated report, to make it jointly with the DLP.

6.9 Where the DLP is of the view that a report does not need to be made, the DLP should inform the MP that s/he may seek informal advice from Tusla and/or to report his/her concern and/or to make a mandated report where s/he still considers that such a report is warranted. In such circumstances, the MP shall:

- inform the DLP that a report has been made and whether it was a mandated report; and
- provide a copy of the report to the DLP, and
- assist Tusla, if requested, in accordance with Section 16 of the 2015 Act in assessing a concern which has been the subject of a mandated report; and

Schedule 2 of the 2015 Act specifies the following classes of persons as MPs 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.

## **7. Risk Assessment**

7.1 New Horizon has undertaken a risk assessment in which it has assessed potential harm to children while availing of the services provided by the New Horizon and the list of procedures for managing these risks.

## **8. Child Safeguarding Procedures**

8.1 Procedure to be followed where an allegation of abuse is made against a volunteer of New Horizon.

8.2 If an allegation is made against a volunteer of New Horizon, the following procedure, which is guided by the 2015 Act, the 2017 Guidance, agreed procedures and the rules of natural justice shall apply:

- a. The DLP shall be informed as soon as possible.
- b. The DLP shall immediately refer the matter to the Trustees who may take any necessary protective measures, to ensure the safety of the child, including, where necessary, placing the volunteer on administrative leave.
- c. The DLP shall report the allegation to Tusla and, where appropriate, to An Garda Síochána, in accordance with this Statement.
- d. The allegation shall then be followed up, by the DLP, through further consultations with Tusla and, where appropriate, An Garda Síochána.
- e. The allegation must be dealt with sensitively and the New Horizon volunteer treated fairly and in accordance with the principles of natural justice.
- f. The volunteer, against whom the allegation has been made, shall be informed of the fact that the allegation has been made and the available details of the nature of the allegation.

8.3 Procedure for the recruitment and selection of volunteers to work with children

8.3.1. New Horizon shall undertake vetting of current and prospective volunteers in accordance with the National Vetting Bureau (Children & Vulnerable Persons) Act 2012 (as amended).

8.4. New Horizon shall provide specialised training to volunteers who are:

- i. the DLP/DDLP
- ii. are MPs; and/or

a necessary and regular part of their activities consists mainly of the person having access to, or contact with, children, in order to ensure that they are:

- a. aware of their statutory obligations;

- b. aware of the procedures in place to inform and instruct volunteers in relation to the identification of child protection concerns;
- c. providing confident responses to child protection issues.

## 8.5 Procedure for the reporting of child protection or welfare concerns to Tusla

8.5.1 This must be done in accordance with the provisions of this Child Safeguarding Statement.

## **9. Communication of Report to Child's Parent(s) or Guardian(s)**

9.1 It is appropriate to inform the parent/guardian of the child that a report concerning his or her child is being made and the reasons for the decision to make the report.

However, it is not necessary to inform the parent/carer that a report is being made if by doing so:

- i. the child will be placed at further risk; or
- ii. Tusla's ability to carry out a risk assessment is impaired; or
- iii. the reporter reasonably believes that it may place the him/her at risk of harm from the family.

9.2 Accordingly, when the DLP is submitting a report to Tusla, he/she should inform a parent/carer that a report is being made and the reasons for the decision to report except where any of the conditions at (1) to (3) above apply. In any case, where an MP is submitting a report to Tusla, the DLP, rather than the MP concerned, shall assume the responsibility for informing the parent/carer.

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

9.4 Where the DLP has any doubt as to whether to inform a parent/carer that a report is being made, the DLP shall seek the advice of Tusla.

## **10. Confidentiality & Record Keeping**

10.1 While all reports of allegations of child abuse must be handled in a sensitive manner in accordance with relevant legislation, volunteers are not in a position to give undertakings regarding secrecy in relation to such reports.

10.2 All information regarding concerns of child abuse may only be disclosed to persons who have a legitimate involvement or role in dealing with the issue. Disclosing information reasonably and in good faith to those who need to have the information for the protection of a child who may have been or is in danger of being abused (including the DLP, Tusla or An Garda Síochána) is not a breach of confidentiality or data protection laws.

10.3. Further to the requirements of section 17 of the 2015 Act, where the DLP and/or MP is assisting Tusla to carry out an assessment, s/he may not share this information with a third party save in accordance with the law, or unless Tusla authorises in writing the disclosure of information, subject to such conditions (if any) as Tusla considers appropriate and specifies in the authorisation. A person who fails to comply with this requirement shall be guilty of a criminal offence.

10.4. All records of allegations in relation to child protection issues, which are made to a volunteer, should be regarded as highly confidential and should be provided to the DLP and stored in a secure location in accordance with Data Protection requirements.

10.5. Where there is an allegation of child abuse or neglect, the DLP shall keep proper dated and signed records. All records are highly confidential and it is the responsibility of the DLP to ensure that these are kept securely.

Such records shall include:

- i. the date and time of disclosure;
- ii. details of the allegation;
- iii. details of what action New Horizon has taken;
- iv. an indication of the parties involved (including third parties) including names and addresses;
- v. any suspicions consequent on the information and the factual grounds for such suspicions;
- vi. the response of the person against whom the allegations were made (if any);
- vii. the report from the New Horizon volunteer who received the information or who has concerns;
- viii. where a decision is made not to inform the parents/guardians, the reason for the decision and the advice received from Tusla;
- ix. details pertaining to dates, times, people, the location of any subsequent meetings and communications of interested parties; and decisions re referral (or not) to Tusla, or An Garda Síochána including how, why, when and by whom the decision was taken.



## **11. Implementation & Review**

11.1. New Horizon recognises that implementation of this Child Safeguarding Statement is an on-going process. This Child Safeguarding Statement will be reviewed on an annual basis, or as soon as practicable after there has been a material change in any matter to which the statement refers.

## **12. Internal and External Contacts**

DLP	Dr. Chris Mc Dermott	0863096016	chrismcdermott@ait.ie
DDLDP	Mr. Gerry Callaghan	0863301216	gerry.callaghan@gmail.com
Tusla	Duty Social Worker	0449353997	N/A
An Garda Síochána	Station in Child's District	N/A	N/A

## **Appendix1 Signs and Symptoms of Child Abuse**

This is an extract from Chapter 2 the 2017 Guidance.

### **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 the volunteer sees the child over a period of time, or the effects of neglect may be obvious based on having seen the child once.

### **Characteristics of neglect**

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

## **Signs and symptoms of 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.

## **Characteristics of emotional abuse**

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.

## **Signs and symptoms of 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 2015 Act 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.

### **Signs and symptoms of 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.

**Appendix 2 Children First Act 2015**



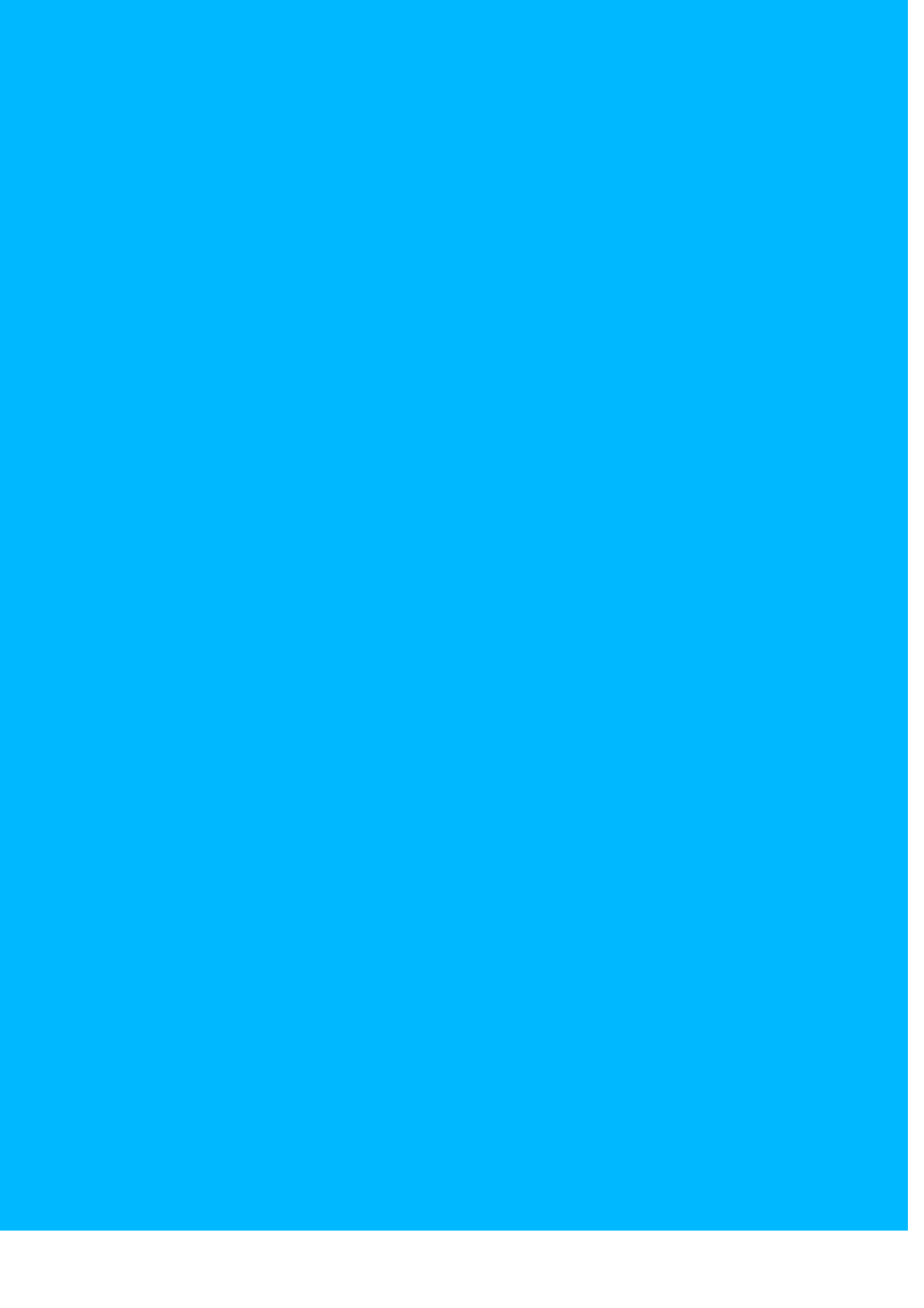
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**CHILDREN FIRST ACT 2015**

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Punishment of Incest Act 1908 (8 Edw. 7, c.45)  
Youth Work Act 2001 (No. 42)

[2015.]

Children First Act 2015.

[No. 36.]



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Number 36 of 2015

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## **Children First Act 2015**

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An Act for the purposes of making further and better provision for the care and protection of children and for those purposes to require the preparation, by certain providers of services to children, of child safeguarding statements; to require certain persons to make reports to the Child and Family Agency in respect of children in certain circumstances; to require certain persons to assist the Child and Family Agency in certain circumstances; to provide for the establishment of the Children First Inter-Departmental Implementation Group; to make provision for the preparation of sectoral implementation plans by Departments of State; to provide for the abolition of the common law defence of reasonable chastisement and, for that purpose, to amend the Non-Fatal Offences Against the Person Act 1997; and to provide for related matters.

[19th November, 2015]

**Be it enacted by the Oireachtas as follows:**

### PART 1

#### PRELIMINARY AND GENERAL

#### **Short title and commencement**

1. (1) This Act may be cited as the Children First Act 2015.  
(2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions.

#### **Definitions**

2. In this Act—

“Agency” means the Child and Family Agency;

“authorised person” has the meaning assigned to it by section 15(1); “child” has the same meaning it has in section 2 of the Child Care Act 1991; “child safeguarding statement” has the meaning assigned to it by section 11(1); “enactment” means a statute or an instrument made under a power conferred by statute;

“harm” means, in relation to a child—

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

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

“Implementation Group” has the meaning assigned to it by section 20;

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

“mandated person” means a person who is a person specified in Schedule 2; “mandated report form” has the meaning assigned to it by section 14(6); “Minister” means the Minister for Children and Youth Affairs;

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

“prescribed” means prescribed by regulations made by the Minister under section 3; “relevant service” means any work or activity specified in Schedule 1;

“sectoral implementation plan” has the meaning assigned to it by section 27(1); “sexual abuse” means, in relation to a child—

- (a) an offence against the child, specified in Schedule 3,
- (b) wilful exposure of the child to pornography, or
- (c) wilful sexual activity in the presence of the child;

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

### **Regulations**

- 3.** (1) The Minister may by regulations provide for any matter referred to in this Act as prescribed or to be prescribed.
- (2) Regulations under this Act may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.
- (3) Every regulation under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within 21 days on which that House sits after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

**Service of notices**

4. (1) A notice that is required to be served on a person under this Act shall be addressed to the person by name and may be so served in one of the following ways:
- (a) by delivering it to the person;
  - (b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address;
  - (c) by sending it by post in a pre-paid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address.
- (2) For the purposes of this section, a company within the meaning of the Companies Acts shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body of persons, shall be deemed to be ordinarily resident at its principal office or place of business.

**Expenses**

5. The expenses incurred by the Minister or any other Minister of the Government in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

**Guidelines**

6. (1) The Minister may issue guidelines for the purpose of providing practical guidance to persons in respect of the protection and welfare of children.
- (2) The Minister shall publish guidelines issued under subsection (1) in such manner (including on the internet) as he or she considers appropriate.
- (3) Any guidelines that have been issued by the Minister before the commencement of this subsection for the purpose of providing practical guidance in respect of the protection and welfare of children, and that are in force immediately before that commencement, shall, on such commencement, be deemed to be guidelines issued under subsection (1).

**Best interests of child**

7. The Agency shall, in performing a function under this Act, regard the best interests of the child as the paramount consideration.

**PART 2****CHILD SAFEGUARDING STATEMENTS****Definitions for purposes of Part 2**

8. In this Part—

“advance notice” shall be construed in accordance with section

12(2); “contract of employment” means—

- (a) a contract of service or apprenticeship, or
- (b) any other contract whereby an individual agrees with another person, who is carrying on the business of an employment agency within the meaning of the Employment Agency Act 1971, and is acting in the course of that business, to do or perform personally any work or service for a third person (whether or not the third person is a party to the contract),

whether the contract is express or implied and, if express, whether it is oral or in writing; “non-compliance notice” means a notice served by the Agency under section 12(6);

“personal relationship” has the same meaning as it has in section 3 of the NationalVetting Bureau (Children and Vulnerable Persons) Act 2012;

“provider” means, in relation to a relevant service, a person—

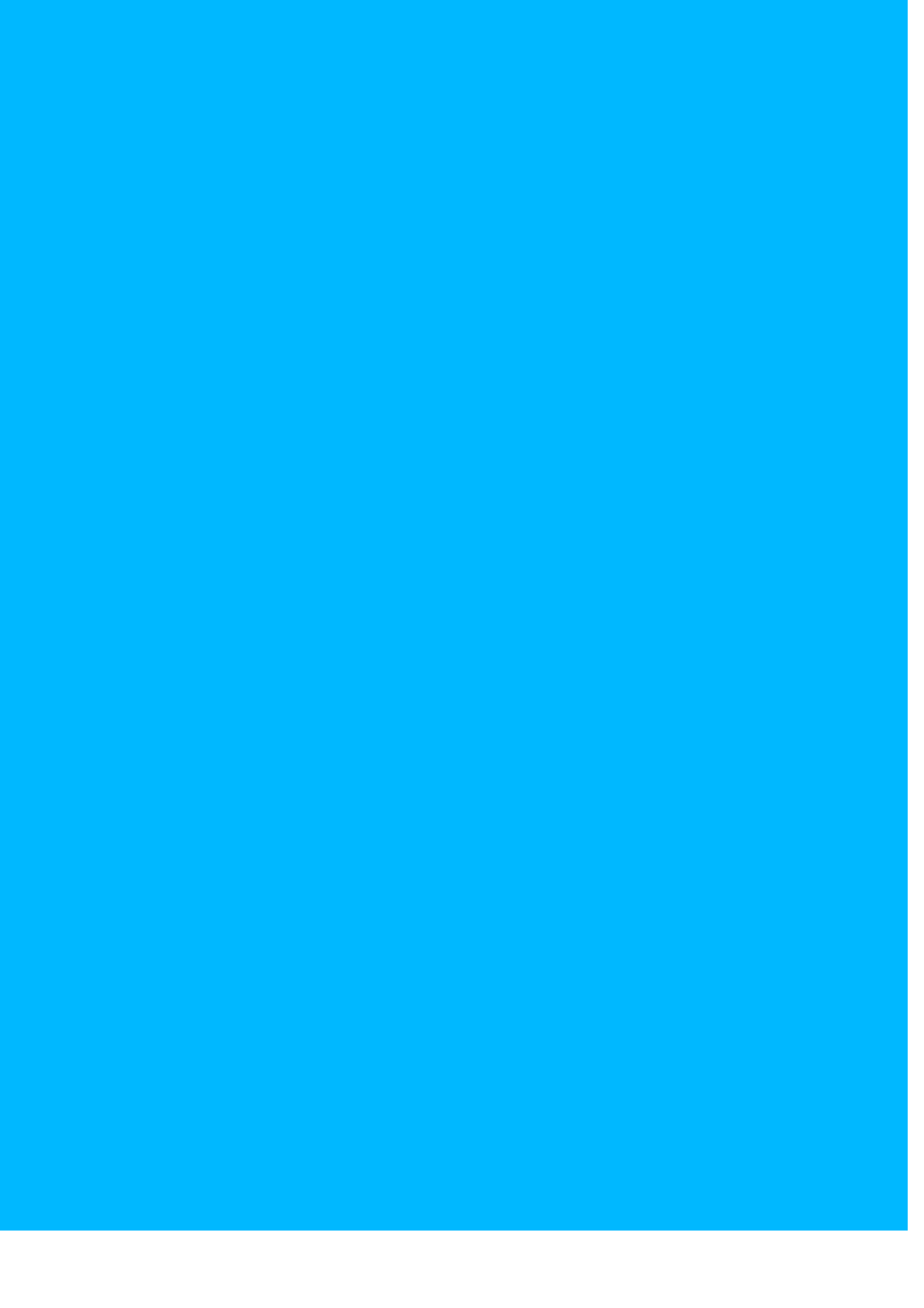
- (a) who provides a relevant service, and
- (b) who, in respect of the provision of such relevant service—
  - (i) employs (whether under contract of employment or otherwise) one or more than one other person to undertake any work or activity that constitutes a relevant service,
  - (ii) enters into a contract for services with one or more than one other person for the provision by the person of a relevant service, or
  - (iii) permits one or more than one other person (whether or not for commercial or other consideration and whether or not as part of a course of education or training, including an internship scheme) to undertake any work or activity, on behalf of the person, that constitutes a relevant service;

“register of non-compliance” shall be construed in accordance with section 13(1);

“relevant person” means a person who is appointed by a provider of a relevant service to be the first point of contact in respect of the provider’s child safeguarding statement.

### **Application of Part**

9. A person who would but for this section be regarded as a provider of a relevant service shall not be a provider for the purposes of this Part if the relevant service being provided by the person concerned is—
- (a) undertaken in the course of a family relationship, where the work or activity is undertaken solely for the benefit of a child or other family member of the person,
  - (b) undertaken in the course of a personal relationship for no commercial consideration, or
  - (c) undertaken on an occasional basis only for no consideration at a school, sports or community event or activity.





**Child safeguarding**

10. A provider of a relevant service shall ensure, as far as practicable, that each child availing of the service from the provider is safe from harm while availing of that service.

**Risk assessment and child safeguarding statements, etc.**

11. (1) Where a person proposes to operate as a provider of a relevant service, he or she shall, within 3 months from the date on which he or she commences as such a provider—
- (a) undertake an assessment of any potential for harm to a child while availing of the service (in this section referred to as a “risk”),
  - (b) prepare, in accordance with subsection (3), a written statement (in this Act referred to as a “child safeguarding statement”) specifying the service being provided and the principles and procedures to be observed to ensure as far as practicable, that a child, while availing of the service, is safe from harm, and
  - (c) appoint a relevant person for the purposes of this Part.
- (2) A person who, immediately before the commencement of this section, was operating as a provider of a relevant service shall, not later than 3 months from the date of such commencement—
- (a) undertake an assessment of any risk,
  - (b) prepare, in accordance with subsection (3), a child safeguarding statement, and
  - (c) appoint a relevant person for the purposes of this Part.
- (3) A child safeguarding statement shall include a written assessment of the risk and, in that regard, specify the procedures that are in place—
- (a) to manage any risk identified,
  - (b) in respect of any member of staff who is the subject of any investigation (howsoever described) in respect of any act, omission or circumstance in respect of a child availing of the relevant service,
  - (c) for the selection or recruitment of any person as a member of staff of the provider with regard to that person’s suitability to work with children,
  - (d) for the provision of information and, where necessary, instruction and training, to members of staff of the provider in relation to the identification of the occurrence of harm,
  - (e) for reporting to the Agency by the provider or a member of staff of the provider (whether a mandated person or otherwise) in accordance with this Act or the guidelines issued by the Minister under section 6,
  - (f) for maintaining a list of the persons (if any) in the relevant service who are mandated persons, and
  - (g) for appointing a relevant person for the purposes of this Part.

- (4) A provider of a relevant service shall ensure that the child safeguarding statement being prepared by the provider has due regard to, and is in accordance with, any guidelines issued by—
  - (a) the Minister under section 6, and
  - (b) the Agency concerning child safeguarding statements.
- (5) A provider of a relevant service shall furnish a copy of the provider's child safeguarding statement—
  - (a) to members of staff of the provider, and
  - (b) on request—
    - (i) to a parent or guardian, as the case may be, of a child availing of the relevant services,
    - (ii) to the Agency, or
    - (iii) to members of the public.
- (6) As soon as may be after the preparation of a child safeguarding statement or any review of it, the provider shall display the statement in a prominent place where the relevant service concerned relates or is provided, or both, as may be appropriate.
- (7) Subject to subsection (8), a provider of a relevant service shall, at intervals of not more than 24 months, undertake a review of the provider's child safeguarding statement and the first such review shall be undertaken not more than 24 months from the date on which the first child safeguarding statement was prepared under subsection (1) or (2), as the case may be, and displayed under subsection (6), and any subsequent review shall be undertaken not more than 24 months from the date when the last review was undertaken.
- (8) A provider of a relevant service shall review a child safeguarding statement prepared under this section as soon as practicable after there has been a material change in any matter to which the statement refers.
- (9) Any of the following matters may be prescribed:
  - (a) the form of a child safeguarding statement;
  - (b) the matters to be included in a child safeguarding statement;
  - (c) the procedures to be followed by a provider of a relevant service in respect of a review, by the provider, of a child safeguarding statement.
- (10) In this section "member of staff" means, in relation to a provider, a person referred to in subparagraph (i), (ii) or (iii) of paragraph (b) of the definition of "provider" as set out in section 8.

**Non-compliance with request to furnish child safeguarding statement**

12. (1) Where, pursuant to a request made by the Agency under section 11(5)(b)(ii), a provider of a relevant service fails to furnish the Agency with a copy of the provider's child safeguarding statement, the Agency may, by notice in writing served on the provider—
  - (a) inform the provider of such failure,
  - (b) require the provider, within such period as may be specified in the notice, to furnish the Agency with a copy of the provider's child safeguarding statement, and
  - (c) inform the provider that failure to furnish the Agency with the child safeguarding statement within the time specified in the notice may result in the provider being served with a non-compliance notice.
- (2) Where a provider of a relevant service fails to comply with a requirement made by the Agency under subsection (1)(b), the Agency shall, by notice in writing served on the provider (in this section referred to as an "advance notice") inform the provider that it is proposing to serve a non-compliance notice on the provider.
- (3) The advance notice shall—
  - (a) inform the provider of the failure to furnish the child safeguarding statement concerned to which the notice relates,
  - (b) specify the period within which the child safeguarding statement shall be furnished by the provider,
  - (c) inform the provider that failure to furnish the child safeguarding statement within the period specified may, subject to subsection (5), result in the provider being served with a non-compliance notice, and
  - (d) inform the provider that he or she may make representations to the Agency in accordance with subsection (4).
- (4) A provider who is served with an advance notice may, within 14 days of the receipt of the notice, make representations in writing to the Agency in respect of the proposed non-compliance notice.
- (5) The Agency shall have regard to any representations made to it under subsection (4) in assessing whether to proceed with the service of the non-compliance notice.
- (6) The Agency shall, subject to subsection (5), serve a non-compliance notice on a provider of a relevant service who fails to furnish the Agency with a child safeguarding statement within the period specified in the advance notice and the notice shall inform the provider concerned of the matters specified in subsections (7) and (8).
- (7) A non-compliance notice shall come into effect 21 days from the date of service of the notice unless an appeal is brought by the provider under subsection (8).
- (8) A provider who is served with a non-compliance notice may, within 21 days of the date of service of the notice, appeal the non-compliance notice to the District Court.

- (9) The jurisdiction conferred on the District Court under this section shall be exercised by a judge of that court for the time being assigned to the District Court district in which the person on whom the non-compliance notice is served ordinarily resides or carries on any profession, business or occupation.

### **Register of non-compliance**

- 13.** (1) The Agency shall establish and maintain a register of non-compliance notices (in this Act referred to as the “register of non-compliance”).
- (2) As soon as may be after a non-compliance notice comes into effect pursuant to section 12, the Agency shall enter the particulars of the non-compliance notice on the register of non-compliance.
- (3) Subject to subsection (4), an entry made in respect of a non-compliance notice shall be removed from the register of non-compliance upon receipt by the Agency of the child safeguarding statement to which the entry relates or upon being satisfied that a child safeguarding statement is no longer required, as may be appropriate, whichever is the earlier.
- (4) A person who is the subject of a non-compliance notice may at any time apply to the Agency to have the entry concerned removed from the register of non-compliance and the Agency may, if it considers it appropriate to do so, remove the entry.
- (5) The register of non-compliance shall be made available for inspection by members of the public at all reasonable times at the principal office of the Agency.

## **PART 3**

### **REPORTING**

#### **Mandated persons**

- 14.** (1) Subject to subsections (3), (4), (5), (6) and (7), where a mandated person knows, believes or has reasonable grounds to suspect, on the basis of information that he or she has received, acquired or becomes aware of in the course of his or her employment or profession as such a mandated person, that a child—
- (a) has been harmed,
  - (b) is being harmed, or
  - (c) is at risk of being harmed,
- he or she shall, as soon as practicable, report that knowledge, belief or suspicion, as the case may be, to the Agency.
- (2) Where a child believes that he or she—
- (a) has been harmed,
  - (b) is being harmed, or

- (c) is at risk of being harmed,
- and discloses that belief to a mandated person in the course of the mandated person's employment or profession as such a person, the mandated person shall, subject to subsections (5), (6) and (7), as soon as practicable, report that disclosure to the Agency.
- (3) A mandated person shall not be required to make a report to the Agency under subsection (1) where—
- (a) he or she knows or believes that—
- (i) a child who is aged 15 years or more but less than 17 years is engaged in sexual activity, and
- (ii) the other party to the sexual activity concerned is not more than 2 years older than the child concerned,
- (b) he or she knows or believes that—
- (i) there is no material difference in capacity or maturity between the parties engaged in the sexual activity concerned, and
- (ii) the relationship between the parties engaged in the sexual activity concerned is not intimidatory or exploitative of either party,
- (c) he or she is satisfied that subsection (2) does not apply, and
- (d) the child concerned has made known to the mandated person his or her view that the activity, or information relating to it, should not be disclosed to the Agency and the mandated person relied upon that view.
- (4) A mandated person shall not be required to make a report to the Agency under subsection (1) where the sole basis for the mandated person's knowledge, belief or suspicion is as a result of information he or she has acquired, received or become aware of—
- (a) from—
- (i) another mandated person, or
- (ii) a person, other than a mandated person, who has reported jointly with a mandated person pursuant to subsection (6)(b),
- that a report has been made to the Agency in respect of the child concerned by that other person,
- (b) pursuant to his or her role, as a member of staff of the Agency, in carrying out an assessment as to whether a child who is the subject of a report or any other child has been, is being or is at risk of being harmed, or
- (c) pursuant to his or her role in assisting the Agency with an assessment as to whether a child who is the subject of a report or any other child has been, is being or is at risk of being harmed.

- (5) Subsections (1) and (2) apply only to information that a mandated person acquires, receives or becomes aware of after the commencement of this section irrespective of whether the harm concerned occurred before or after that commencement.
- (6) Subject to subsection (7), a report under subsection (1) or (2) shall be made by the completion of such form as shall be specified for that purpose by the Agency (in this Act referred to as a “mandated report form”) and may be made by the mandated person—
  - (a) himself or herself, or
  - (b) jointly with one or more than one other person, irrespective of whether or not the other person is a mandated person.
- (7) Where a mandated person acting in the course of his or her employment or profession knows, believes or has reasonable grounds to suspect that a child may be at risk of immediate harm and should be removed to a place of safety, he or she may make a report to the Agency under subsection (1) or (2) other than by means of a mandated report form.
- (8) Where a mandated person makes a report under subsection (7), he or she shall in addition, complete a mandated report form as soon as may be but in any event not later than 3 days after the making of the first-mentioned report.
- (9) Any of the following matters may be prescribed:
  - (a) the procedures that are to apply to a mandated person making a report under this section;
  - (b) the making of a report by a mandated person jointly with one or more than one other person under this section.
- (10) The Agency shall make a mandated report form available in such form and manner (including on the internet) as the Agency considers appropriate.
- (11) The obligations imposed on a mandated person under this section are in addition to, and not in substitution for, any other obligation that the person has to disclose information to the Agency (whether or not in his or her capacity as a mandated person), but, subject to subsection (8), this section shall not require the mandated person to disclose that information to the Agency more than once.
- (12) Nothing in this section shall operate to affect any other obligation that a person has to disclose information to a member of An Garda Síochána under the Criminal Justice(Withholding of Information on Offences against Children and Vulnerable Persons)Act 2012 or to any other person by or under any other enactment or rule of law.

### **Authorised persons**

15. (1) The chief executive officer of the Agency shall authorise in writing such member or members of staff of the Agency as he or she considers appropriate for the purposes of receiving reports under section 14 and such person or persons shall, in this Act, be referred to as an authorised person or authorised persons.

- (2) An authorised person shall be deemed to be duly appointed to be a designated officer within the meaning of the Protections for Persons Reporting Child Abuse Act 1998 and the provisions of that Act apply to the authorised person in his or her capacity as such a designated officer accordingly.
- (3) Where an authorised person receives a report under section 14, he or she shall forward, or cause to be forwarded, an acknowledgement in writing stating the date of receipt of the report to the mandated person or persons who made the report.

### **Agency may request mandated persons to assist with assessments**

16. (1) Where the Agency receives a report from a mandated person or persons under section 14, the Agency may, for the purposes of assessing whether a child who is the subject of that report or any other child—
  - (a) has been harmed,
  - (b) is being harmed, or
  - (c) is at risk of being harmed,take such steps as it considers requisite and such steps may include a request to any mandated person whom it reasonably believes may be in a position to assist the Agency for those purposes, to give to the Agency such information and assistance as it may reasonably require and is, in the opinion of the Agency, necessary and proportionate in all of the circumstances of the case.
- (2) Where the Agency makes a request of a mandated person under subsection (1), the mandated person shall, as soon as practicable, comply with the request.
- (3) If a mandated person furnishes any information (including a report), document or thing to the Agency pursuant to a request made under subsection (1), the furnishing of that information, document or thing shall not give rise to any civil liability in contract, tort or otherwise and nor shall the information, document or thing be admissible as evidence against that person in any civil or criminal proceedings.
- (4) The Agency may share information concerning a child who is the subject of a report under section 14 with a mandated person who is assisting the Agency with the assessment concerned, however, the sharing of such information shall be limited to such information as is, in the opinion of the Agency, necessary and proportionate in all the circumstances of the case.
- (5) Subject to the provisions of this Act and the Child Care Act 1991, the procedures for carrying out an assessment arising from a report under section 14 shall be such as the Agency considers appropriate in all the circumstances of the case.
- (6) For the purposes of performing its functions under this Part, the Agency shall have the same powers as it has under the Child Care Act 1991 or any other enactment in respect of children who are not receiving adequate care and protection.
- (7) The powers conferred on the Agency by this Part in respect of reports under section 14 are without prejudice to the powers conferred on it under the Child Care Act 1991 or any other enactment in respect of reports received by it, otherwise than under

section 14, concerning a child who is not receiving adequate care and protection.

- (8) In this section “assistance”, includes, in relation to a request under subsection (1)—
- (a) the provision of verbal or written information or reports,
  - (b) attendance at any meeting arranged by the Agency in connection with its assessment under subsection (1), and
  - (c) the production to the Agency of any document or thing.

#### **Information obtained by Agency or other persons pursuant to Act**

17. (1) Subject to the provisions of this Act, information shared by the Agency with another person (in this subsection referred to as a “relevant person”) in the course of carrying out an assessment arising from a report under section 14 shall not be disclosed to a third party by the relevant person, save in accordance with law or under and in accordance with an authorisation under subsection (2).
- (2) The Agency may authorise in writing the disclosure of information referred to in subsection (1) subject to such conditions (if any) as the Agency considers appropriate and specifies in the authorisation.
- (3) A person who fails to comply with subsection (1) shall be guilty of an offence and shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 6 months or both.
- (4) Where an offence under this section is committed by a body corporate and it is proved that the offence was committed with the consent or connivance, or was attributable to any wilful neglect, of a person who was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, that person, as well as the body corporate, shall be guilty of an offence and may be proceeded against and punished as if he or she were guilty of the first-mentioned offence.
- (5) Where the affairs of a body corporate are managed by its members, subsection (4) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.
- (6) Summary proceedings for an offence under this section may be brought and prosecuted by the Agency.
- (7) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, proceedings for an offence under this section may be instituted at any time within 12 months from the date of the offence.

#### **Agency is specified body for purposes of National Vetting Bureau (Children and Vulnerable Persons) Act 2012**

18. The National Vetting Bureau (Children and Vulnerable Persons) Act 2012 is amended, in Schedule 2, by the insertion of the following paragraph after paragraph 11:

“12. The Child and Family Agency.”.



**Views of child – amendment of Child and Family Agency Act 2013**

19. The Child and Family Agency Act 2013 is amended, in section 9(4), by the substitution of “the Adoption Act 2010, the Children First Act 2015 or” for “the Adoption Act 2010 or”.

**PART 4****CHILDREN FIRST INTER-DEPARTMENTAL IMPLEMENTATION GROUP AND SECTORAL IMPLEMENTATION PLANS****Children First Inter-Departmental Implementation Group**

20. As soon as may be after the commencement of this section, the Minister shall establish a group to be known as the Children First Inter-Departmental Implementation Group, and in this Act referred to as the “Implementation Group”, to perform the functions assigned to it by this Act.

**Membership of Implementation Group**

21. (1) The Implementation Group shall consist of—
- (a) a chairperson, and
  - (b) not less than 18 ordinary members,
- each of whom shall be appointed by the Minister to be a member of the Implementation Group.
- (2) The Minister shall appoint an officer of the Minister to be the chairperson of the Implementation Group.
- (3) The ordinary members of the Implementation Group shall be comprised as follows:
- (a) an officer of each Minister of the Government nominated by the Minister of the Government having charge of the Department of State concerned;
  - (b) a member of An Garda Síochána nominated by the Commissioner of An Garda Síochána;
  - (c) an employee of the Agency nominated by the chief executive officer of the Agency;
  - (d) an employee of the Health Service Executive nominated by the Director General of the Health Service Executive.
- (4) The Minister may at any time dissolve the Implementation Group.

**Functions of Implementation Group**

22. The functions of the Implementation Group shall be to—
- (a) promote compliance by Departments of State with their obligations under this Act,

- (b) monitor the implementation by Departments of State of the guidelines issued by the Minister under section 6,
- (c) provide support to Departments of State in respect of the preparation and publication of sectoral implementation plans,
- (d) promote a consistent approach by Departments of State in respect of the preparation and publication of sectoral implementation plans,
- (e) report to the Minister, when requested, on the implementation of this Act and of the guidelines issued by the Minister under section 6, and
- (f) provide information or advice, or make proposals, to the Minister on matters relating to the functions of the Implementation Group referred to in paragraphs (a), (b), (c), (d) and (e).

### **Directions of Minister**

- 23.** (1) The Minister may give a direction in writing to the Implementation Group in relation to the performance by the Implementation Group of its functions under this Act, requiring it to comply with such policies of the Government as are specified in the direction.
- (2) The Minister may, by direction in writing, amend or revoke a direction under this section (including a direction under this subsection).
- (3) The Implementation Group shall comply with a direction given to it under this section.

### **Conditions and cessation of membership**

- 24.** (1) An appointment made under section 21(1) shall, subject to the provisions of this Part, be on such terms and conditions as may be determined by the Minister.
- (2) Without prejudice to the generality of subsection (1), a person appointed by the Minister under section 21(1) shall cease to be a member of the Implementation Group—
- (a) where appointed under subsection (3)(a) of that section—
    - (i) if he or she ceases to be an officer of the Minister of the Government concerned, or
    - (ii) at the request of that Minister of the Government,
  - (b) where appointed under subsection (3)(b) of that section—
    - (i) if he or she ceases to be a member of An Garda Síochána, or
    - (ii) at the request of the Garda Commissioner,
  - (c) where appointed under subsection (3)(c) of that section—
    - (i) if he or she ceases to be an employee of the Agency, or

- (ii) at the request of the chief executive officer of the Agency,  
or
- (d) where appointed under subsection (3)(d) of that section—
  - (i) if he or she ceases to be an employee of the Health Service Executive, or
  - (ii) at the request of the Director General of the Health Service Executive.
- (3) If a member of the Implementation Group dies or ceases to be a member of the Group, the Minister may appoint a person to be a member of the Implementation Group to fill the vacancy so occasioned in the same manner as the member of the Implementation Group who occasioned the vacancy was appointed.

### **Meetings and procedures**

- 25.** (1) The Implementation Group shall hold such and so many meetings as may be necessary for the performance of its functions and may, subject to the provisions of this Part, make such arrangements for the conduct of its meetings and business as it considers appropriate.
- (2) The quorum for a meeting of the Implementation Group shall be 8.
- (3) Subject to subsection (2), the Implementation Group may act notwithstanding one or more than one vacancy among its membership.
- (4) At a meeting of the Implementation Group—
- (a) the chairperson of the Implementation Group shall, if present, be the chairperson of the meeting, or
  - (b) if and so long as the chairperson of the Implementation Group is not present, or if that office is vacant, the members of the Implementation Group who are present shall choose one of their number to be the chairperson of the meeting.

### **Reports**

- 26.** (1) The Implementation Group shall, not later than 30 June of each calendar year, prepare and submit to the Minister a report on the performance of its functions and activities during the preceding year or, in the case of the first such report, its functions and activities since the date it was established up to and including 31 December of the preceding year.
- (2) The Minister shall, as soon as may be after receiving the report under subsection (1), cause a copy of it to be laid before each House of the Oireachtas.
- (3) A report under subsection (1) shall be in such form as the Minister may approve and shall include information in such form and regarding such matters as the Minister may from time to time direct.
- (4) The Implementation Group shall supply, when required by the Minister to do so, a report on any matter connected with the functions of the Implementation Group as may be specified by the Minister.

- (5) A report under subsection (4) shall be in such form and shall be made within such period as the Minister may specify.

### **Sectoral implementation plans**

27. (1) Each Minister of the Government shall, as soon as may be after the commencement of this section, prepare and publish a plan (in this Act referred to as a “sectoral implementation plan”) in relation to the matters referred to in subsection (2) outlining the programme of measures taken or proposed to be taken by or on behalf of the Minister concerned to ensure that—
- (a) the Department of State concerned, and
  - (b) any body that provides a relevant service and receives funding from the Department concerned in that regard,
- complies with the provisions of this Act and of the guidelines issued by the Minister under section 6.
- (2) A sectoral implementation plan shall contain information concerning—
- (a) relevant services provided by or on behalf of the Department of State concerned,
  - (b) measures taken or proposed to be taken to promote, review and report on compliance with the provisions of this Act and of the guidelines issued by the Minister under section 6,
  - (c) monitoring and review procedures in relation to the subject matter of the plan, and
  - (d) such other matters (if any) as the Minister of the Government concerned considers appropriate.
- (3) Any plan that has been published by a Minister of the Government before the commencement of this section and in relation to the matters referred to in subsection (2) that is in force immediately before such commencement, shall be deemed, on such commencement, to be a sectoral implementation plan prepared and published by that Minister under subsection (1).
- (4) As soon as may be after the preparation of a sectoral implementation plan or, in the case of a sectoral implementation plan to which subsection (3) applies, as soon as may be after the commencement of this section, the Minister of the Government concerned shall cause copies of the plan to be laid before each House of the Oireachtas.
- (5) Each Minister of the Government shall review and, if appropriate, revise a sectoral implementation plan and publish a sectoral implementation plan as revised—
- (a) not later than 3 years, or such other period as may be determined by the Minister, from the date of publication of that plan in accordance with this section or, in the case of a sectoral implementation plan to which subsection (3) applies, the date of the commencement of this section, and
  - (b) not later than 3 years, or such other period as may be determined by the Minister, from the date of the last review of that plan under this section.

- (6) A sectoral implementation plan prepared by a Minister of the Government under subsection (1) may be amended by another sectoral implementation plan prepared by that Minister.

## PART 5

### MISCELLANEOUS

#### **Abolition of defence of reasonable chastisement**

28. The Non-Fatal Offences Against the Person Act 1997 is amended by the insertion of the following section after section 24:

**“24A.** (1) The common law defence of reasonable chastisement is abolished.

(2) Subsection (1) shall not apply in respect of proceedings brought against a person for an offence consisting in whole or in part of any act done by the person before the commencement of section 28 of the Children First Act 2015, whether those proceedings were brought before, on or after such commencement.

(3) This section shall not affect the operation of section 24.”.

## SCHEDULE 1

## Section 2

## RELEVANT SERVICES

1. 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 in—
  - (a) an establishment which provides early years services within the meaning of Part VIIA of the Child Care Act 1991,
  - (b) a school or centre of education, both within the meaning of the Education Act 1998,
  - (c) any hospital, hospice, health care centre or other centre which receives, treats or otherwise provides physical or mental health services to children,
  - (d) a designated centre within the meaning of section 2 of the Health Act 2007, in so far as it relates to an institution at which residential services are provided in accordance with the Child Care Act 1991 or to children with disabilities in relation to their disabilities,
  - (e) a special care unit provided and maintained in accordance with section 23K of the Child Care Act 1991,
  - (f) a children detention school within the meaning of section 3 of the Children Act 2001,
  - (g) a reception or accommodation centre which provides residential accommodation services to applicants for asylum under contract to the Department of Justice and Equality where children may be accommodated, or
  - (h) a centre which provides residential accommodation services to victims of domestic violence where children may be accommodated.
2. Any work or activity which consists of the inspection of a service provided to a child under the Child Care Act 1991, the Education Act 1998, the Children Act 2001 or the Health Act 2007.
3. Any work or activity which consists of the inspection, examination or investigation by the Office of the Ombudsman for Children under the Ombudsman for Children Act 2002.
4. Any work or activity which consists of treatment (including assessment which may lead to treatment), therapy or counselling provided to a child.
5. Any work or activity which consists of the provision of—
  - (a) educational, research, training, cultural, recreational, leisure, social or physical activities to children,
  - (b) care or supervision of children, or
  - (c) formal consultation with, or formal participation by, a child in respect of matters that affect his or her life,

whether or not for commercial or any other consideration.

6. Any work or activity which consists of the provision of advice or guidance services (including by means of electronic interactive communications), a necessary and regular part of which consists, mainly, of the person having access to, or contact with, children.
7. Any work or activity as a minister or priest or any other person engaged in the advancement of any religious beliefs which would or could bring that minister, priest or other person, as the case may be, into contact with a child.
8. Any work or activity as a driver of, or as an assistant to the driver, or as a conductor, or as a supervisor of children using a vehicle which is being hired or used only for the purpose of conveying children who are unaccompanied by a parent or guardian.
9. Any work or activity which is carried out by a member of An Garda Síochána, a necessary and regular part of which consists mainly of the person having access to, or contact with, children.

## SCHEDULE 2

## Section 2

## MANDATED PERSONS

The following classes of persons are specified as mandated persons for the purposes of this Act:

1. Registered medical practitioner within the meaning of section 2 of the MedicalPractitioners 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 (CommunityService) 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 Act1991.
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.

## SCHEDULE 3

## Section 2

OFFENCES FOR PURPOSES OF PARAGRAPH (A) OF DEFINITION OF "SEXUAL ABUSE" IN SECTION 2

1. Rape.
2. Rape under section 4 of the Criminal Law (Rape) (Amendment) Act 1990.
3. Sexual assault.
4. Aggravated sexual assault within the meaning of section 3 of the Criminal Law (Rape) (Amendment) Act 1990.
5. An offence under section 1 of the Punishment of Incest Act 1908 (incest by males).
6. An offence under section 2 of the Punishment of Incest Act 1908 (incest by females of or over 17 years of age).
7. An offence under section 6(1) of the Criminal Law (Sexual Offences) Act 1993 (soliciting or importuning for purposes of commission of sexual offence).
8. An offence under section 2 of the Criminal Law (Sexual Offences) Act 2006 (defilement of child under 15 years of age).
9. An offence under section 3 of the Criminal Law (Sexual Offences) Act 2006 (defilement of child under 17 years).
10. An offence under either of the following provisions of the Child Trafficking and Pornography Act 1998:
  - (a) section 3 (child trafficking and taking, etc., child for sexual exploitation);
  - (b) section 4 (allowing child to be used for child pornography).
11. An offence under section 5 of the Criminal Law (Human Trafficking) Act 2008 in so far as it relates to a child who has been trafficked for the purpose of his or her exploitation (soliciting or importuning for purposes of prostitution of trafficked person).
12. An offence under section 176 of the Criminal Justice Act 2006 (reckless endangerment of children).
13. An offence under section 249 of the Children Act 2001 (causing or encouraging sexual offence upon a child).