



## **Reporting Procedures in respect of suspected or actual child abuse**

### **Introduction**

A volunteer or staff person who knows or suspects that a young person has been or is at risk of being harmed has a duty to convey this concern to the DLP, who will report the information to Tusla.

Tusla may, in turn notify An Garda Síochána. In an emergency situation/out of hours, a report can be made directly to An Garda Síochána.

### **Basis for reporting concerns**

#### **Responsibility to report child abuse or neglect**

Everyone must be alert to the possibility that children with whom they are in contact may be suffering from abuse or neglect. This responsibility is particularly relevant for professionals such as teachers, child care workers, health professionals and those working with adults with serious parenting difficulties.

In ROI, TUSLA Child and Family Agency 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.

Child protection concerns should be supported by evidence that indicates the possibility of abuse or neglect.

What constitutes reasonable grounds for a child protection or welfare concern?

- An injury or behaviour that is consistent both with abuse and an innocent explanation, but where there are corroborative indicators supporting the concern that it may be a case of abuse.
- Consistent indication over a period of time that a child is suffering from emotional or physical neglect.
- Admission or indication by someone of an alleged abuse.
- A specific indication from a child that he or she was abused.
- An account from a person who saw the child being abused.
- Evidence (e.g. injury or behaviour) that is consistent with abuse and unlikely to have been caused in any other way.

See appendix for full list of abuse indicators

A concern about a potential risk to children posed by a specific person, even if the children are unidentifiable, should also be communicated to TUSLA Children and Family Services. This could occur if a disclosure of abuse whether from a person under or over 18 reveals for example that the alleged perpetrator is in contact with other children who may be at risk, although these children are not known to our services. They still need to be reported.

Sometimes families where abuse is occurring move on a lot. If there is social worker involvement advise social worker of the lack of attendance or other concerns.

Obviously any child who has gone missing is a concern, usually families will raise these with the Gardai but if you are not certain you have the right to contact the DLP or the Gardai too.

The guiding principles in regard to reporting child abuse or neglect may be summarised as follows:

- (i) the safety and well-being of the child must take priority;
- (ii) reports should be made without delay to TUSLA Children and Family Services.

Any reasonable concern or suspicion of abuse or neglect must elicit a response. Ignoring the signals or failing to intervene may result in ongoing or further harm to the child.

Section 176 of the Criminal Justice Act 2006 introduced the criminal charge of reckless endangerment of children. It states: 'A person, having authority or control over a child or abuser, who intentionally or recklessly endangers a child by –

- (a) causing or permitting any child to be placed or left in a situation which creates a substantial risk to the child of being a victim of serious harm or sexual abuse, or
- (b) failing to take reasonable steps to protect a child from such a risk while knowing that the child is in such a situation, is guilty of an offence.'

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

TUSLA has a statutory obligation to identify children who are not receiving adequate care and protection, to provide family support services and, where necessary, to take children into the care of TUSLA. People who report concerns need to be assured that their information will be carefully considered with any other information available, and a child protection assessment will only proceed where sufficient risk is identified.

Any professional who suspects child abuse or neglect should inform the parents/carers if a report is to be submitted to TUSLA Child and Family Agency or to An Garda Síochána, unless doing so is likely to endanger the child.

TUSLA will respect the wishes of non-professionals reporting concerns in good faith who ask to remain anonymous in as much as possible, but cannot give a guarantee that the information would not be sought and given within judicial proceedings. (The Data Protection Acts offer protection under privacy, but should the information be sought directly within legal proceedings, there is no guarantee.)

### **Designated Liaison Persons for reporting neglect or abuse**

Every organisation, both public and private, that is providing services for children or that is in regular direct contact with children should:

- (i) Identify a designated liaison person to act as a liaison with outside agencies and a resource person to any staff member or volunteer who has child protection concerns.

(ii) The Designated Liaison Person is responsible for ensuring that the standard reporting procedure is followed, so that suspected cases of child neglect or abuse are referred promptly to the designated person in TUSLA Child and Family Agency or in the event of an emergency and the unavailability of TUSLA, to An Garda Síochána.

(iii) The Designated Liaison Person should ensure that they are knowledgeable about child protection and undertake any training considered necessary to keep themselves updated on new developments.

**The Designated Liaison Person, Kathryn O'Mahony 0861085280**

**The Deputy DLP is Paul McDonald 0878528600**

### Standard Reporting Procedure

Any person reporting a child abuse or neglect concern should do so without delay to the Designated Liaison Person who will on turn contact TUSLA Child and Family Agency. A report can be made in person, by telephone or in writing. Contact numbers for the DLP are available in this document and TUSLA offices nationwide are on the TUSLA website ([www.TUSLA.ie](http://www.TUSLA.ie)) or through TUSLA LoCall Tel. 1850 241850. The Contact Details are also included a Google document.

Before deciding whether or not to make a formal report, the DLP may wish to discuss concerns directly with TUSLA Child and Family Agency who have experience to explore concerns in more detail.

Under no circumstances should a child be left in a situation that exposes him or her to harm or to risk of harm pending TUSLA intervention. In the event of an emergency where you think a child is in immediate danger and you cannot get in contact with the DLP or TUSLA, you should contact the Gardaí. This may be done through any Garda station.

The Standard Report Form for reporting child welfare and protection concerns to TUSLA should be used by professionals, staff and volunteers in organisations working with or in contact with children, or providing services to children when reporting child protection and welfare concerns to TUSLA Children and Family Services. If a report is made by telephone, this form should be completed and forwarded subsequently to TUSLA.

TUSLA will follow up on all referrals, even if the Standard Report Form has not been used.

### **Standard Reporting Procedure**

Any person reporting a child abuse concern should do so without delay to the DLP who will make the report to the Child Welfare and Protection Services of TUSLA. Reports can be made in person, by telephone or in writing.

Under no circumstances should a child be left in a situation that exposes him or her to harm or to risk of harm pending TUSLA intervention. In the event of an emergency where you think a child is in immediate danger and you cannot get in contact with the DLP, you should contact the Gardaí. This may be done through any Garda station.

The **Standard Report Form** (see Form In Drive) should be used when reporting child welfare and protection concerns to the Child Welfare and Protection Services of TUSLA. If a report is made by telephone, this form should be completed and forwarded subsequently to TUSLA.

## **Information required when making a report**

The ability of the Child Welfare and Protection Services of TUSLA or An Garda Síochána to assess suspicions or allegations of child abuse will depend on the amount and quality of information conveyed to them by the people reporting concerns (hereafter called 'reporters'). As much as possible of the following detail should be provided:

- (i) the name, address and age of the child (or children) for whom the report is being made;
- (ii) the name of the child's school;
- (iii) the name and address of the reporter;
- (iv) the contact number and occupation of the reporter;
- (v) the relationship of the reporter to the child;
- (vi) a full account of what constitutes the grounds for concern in relation to the welfare and protection of the child or children, e.g. details of the allegation, incident, dates, description of any injuries, etc;
- (vii) the names and addresses of the parents/carers of the child or children;
- (viii) the names of other children in the household;
- (ix) the name, address and details of the person allegedly causing concern in relation to the child or children;
- (x) the child's and/or parents/carers' own views, if known and relevant;
- (xi) the names and addresses of other personnel or agencies involved with the child or children, e.g. GP, social worker, public health nurse, Gardaí, etc;
- (xii) any other relevant information.

Any professional/DLP who suspects child abuse should inform the parents/carers if a report is to be submitted to the Child Welfare and Protection Services of TUSLA or to An Garda Síochána, unless doing so is likely to endanger the child.

## **Retrospective disclosures by adults**

An increasing number of adults are disclosing abuse that took place during their childhoods. Such disclosures often come to light when adults attend counselling. It is essential to establish whether there is any current risk to any child who may be in contact with the alleged abuser revealed in such disclosures.

If any risk is deemed to exist to a child who may be in contact with an alleged abuser, the counsellor/health professional/staff member or volunteer should report the allegation to the DLP in the first instance or if unavailable directly to TUSLA Child and Family Agency without delay.

TUSLA National Counselling Service is in place to listen to, value and understand those who have been abused in childhood. The service is a professional, confidential counselling and psychotherapy service and is available free of charge in all regions of the country (see [www.TUSLA-ncs.ie/en](http://www.TUSLA-ncs.ie/en)). The service can be accessed either through healthcare professionals or by way of self-referral (Freephone 1800 477477).

## **Extra-familial abuse**

Abuse may be carried out by someone other than an adult living in the immediate family. This may happen where the child is in contact with a member of the extended family, a friend, an acquaintance or a person whose professional activity brings them into contact with the child. Such abuse should be reported to the Child Welfare and Protection Services of TUSLA in the same way as abuse within the family.

## **Deciding to share child protection concerns**

The belief that parents/carers or other persons in charge of children would actually harm or neglect them is not easy to sustain. There may be a tendency, therefore, to deny, minimise or explain away any signs that a child is being harmed, even when evidence exists. At times, it is hard to distinguish between abusive situations and those where other problems are present, such as unemployment, poverty, poor housing, addiction, mental illness or isolation. Sympathy for families in difficult circumstances can sometimes dilute personal or professional concerns about the safety and welfare of children. However, the protection and welfare of the child must always be the paramount concern.

Reluctance to act on suspicions about child abuse or neglect can often stem from uncertainty and fear. Members of the public or professionals may be afraid of repercussions, afraid of being thought insensitive, afraid of breaking a confidence or afraid of being disloyal. Knowledge and information about child abuse will help to overcome reluctance to take action. So too will confidence in the child protection and welfare services.

It is the responsibility of all agencies working with children and for the public to recognise child protection concerns and share these with the agencies responsible for assessing or investigating them, not to determine whether the child protection concerns are evidenced or not.

## **Cases not reported to TUSLA or An Garda Síochána**

In those cases where YMCA decides not to report concerns to TUSLA or An Garda Síochána, the individual employee or volunteer who raised the concern will be given a clear written statement of the reasons why the organisation is not taking such action. The employee or volunteer should be advised that if they remain concerned about the situation, they are free as individuals to consult with, or report to, TUSLA or An Garda Síochána. The provisions of the Protections for Persons Reporting Child Abuse Act 1998 apply once they communicate 'reasonably and in good faith'

## **Confidentiality**

The effective protection of a child often depends on the willingness of the staff in statutory and voluntary organisations involved with children to share and exchange relevant information. It is therefore critical that there is a clear understanding of professional and legal responsibilities with regard to confidentiality and the exchange of information.

All information regarding concern or assessment of child abuse or neglect should be shared on 'a need to know' basis in the interests of the child with the relevant statutory authorities.

No undertakings regarding secrecy can be given. Those working with a child and family should make this clear to all parties involved, although they can be assured that all information will be handled taking full account of legal requirements.

Ethical and statutory codes concerned with confidentiality and data protection provide general guidance. They are not intended to limit or prevent the exchange of information between different professional staff with a responsibility for ensuring the protection and welfare of children. The provision of information to the statutory agencies for the protection of a child is not a breach of confidentiality or data protection.

It must be clearly understood that information gathered for one purpose must not be used for another without consulting the person who provided that information.

The issue of confidentiality is part of the training necessary for staff who work in the area of child protection and welfare and the general training of staff in organisations that work with children.

Concerns about a child that are reported anonymously should be followed up fully in accordance with YMCA standard procedures. If the report has been made through a third party, the person mediating should be requested to facilitate contact between the original person who reported the concern and the DLP/TUSLA. Children and Family Services. If, however, contact is not facilitated, for whatever reason, the concerns reported via the third party must be fully investigated. It is preferable for the management of cases if those reporting concerns are encouraged to provide contact details.

Parents and children have a right to know if personal information is being shared, unless doing so could put the child at further risk.

It should be noted that this section is also backed by the YMCA Ireland Confidentiality Statement.

### **Legal protection**

The Protections for Persons Reporting Child Abuse Act 1998 makes provision for the protection from civil liability of persons who have communicated child abuse 'reasonably and in good faith' to designated officers of TUSLA or to any member of An Garda Síochána. This protection applies to organisations as well as to individuals. This means that even if a communicated suspicion of child abuse proves unfounded, a plaintiff who took an action would have to prove that the person who communicated the concern had not acted reasonably and in good faith in making the report.

A person who makes a report in good faith and in the child's best interests may also be protected under common law by the defence of qualified privilege.

### **Freedom of information and Data Retention**

Notwithstanding the requirement of all professionals involved in child protection and welfare cases to share relevant information, records are nevertheless confidential. They do not belong to individuals (except for independent practitioners) and are the property of the organisations that keep them. Under the Freedom of Information Acts 1997 and 2003, members of the public have a right of access to records concerning them held by any public body and a right to have official information about themselves amended where it is incorrect, incomplete or misleading. Members of the public also have a right to be given reasons for decisions made concerning themselves. Requests to see records are processed in the first instance through the public body that holds the records. In the event of refusal of access, the decision may be appealed and the ultimate arbiter is the Information Commissioner. At present, these Acts apply to TUSLA, but not to An Garda Síochána.

The Data Protection Acts 1988 and 2003 afford similar rights to individuals to access personal data held about them by any entity whether in the public or private sector. The right to access applies to records held by TUSLA and An Garda Síochána. However, the right to access does not apply in a range of circumstances that may be relevant in a child welfare context. Equally, the right of access does not extend to any information that identifies a third party where that third party had an expectation of confidence. Accordingly, it would not be necessary to provide any information that would identify a person making a child welfare report in response to a request under the Data Protection Acts.

It is the YMCA policy to keep up to date and where appropriate confidential records of:

- Attendance
- Accidents – keep an incident book (accident records should be reviewed regularly and any unusual patterns reported to senior management)
- Consents given for various activities
- Any complaints or grievances
- Incidents and Reports that were made to TUSLA

All Records must be kept in a safe and confidential manner and the DLP should keep notes on incidents & reports whether a report to TUSLA was necessary or not.

(See Data Protection policy for notes on Data Controller and Clarification around length of time to hold onto information)

### **Referral procedures within the YMCA**

In the case of disclosure or reasonable suspicion the volunteer/staff person should discuss the case with the Designated Liaison Person.

If the suspected abuser is an employee of the YMCA, the matter should be brought to the attention of the CEO.

Where a volunteer /staff person has a suspicion but would like to discuss their concerns then the person should be encouraged to contact the DLP in the first instance or the Health Services Executive's social worker. This may help to clarify whether their concerns should be formally notified to the Health Services Executive. It is important to note that contacting the Health Services Executive in this manner will not automatically trigger a child protection investigation.

### **Standard Reporting Procedure in the YMCA**

If child abuse is suspected or alleged, the following steps should be taken by the Designated Liaison Person:

- A Report should be made to the Health Services Executive in person, by telephone or in writing. Reports may be made to the Child Care Manager or directly to the duty Social Worker who is available to meet with, or talk on the telephone to persons wishing to report child protection issues.
- It is generally most helpful if persons wishing to report child abuse concerns make personal contact with DLP or the duty social worker. This will facilitate the social worker in gathering as much information as possible about the child and his/her situation.
- In the event of an emergency, or the non-availability of the DLP or Health Services Executive staff, the report should be made to An Garda Síochána. Under no circumstances should a young person be left in a dangerous situation pending the intervention of the Health Services Executive.

These procedures should be used where the suspicion arises in another organisational context but is disclosed to a volunteer/staff person who is delivering a YMCA programme in another setting, for example in a school. In this instance, the volunteer/staff person should report to the YMCA's Designated Liaison Person.

### **Information required when a Report is being made**

The ability of the statutory authorities to investigate and assess a potential case of child abuse will depend on the quality of information

supplied. In completing a report it is important

- Not to ask leading questions
- Not to seek intimate details beyond those volunteered by the young person

A template for a standard reporting form is contained in the forms section below

### **Co-operation with Parents/Carers**

Parents or carers of any young person deemed to be at risk should be treated with respect. For this reason families should be informed by an appropriate person (DLP or staff member) if a report about them is submitted to the Health Services Executive or an Garda Síochána, unless doing so is likely to endanger the child or undermine an investigation. Advice may be sought from the statutory authorities about the best way to carry this out.

### **Recording and Retention of Information**

In all situations, including those in which the cause of concern arises from a disclosure made in confidence, it is extremely important to record the details of an allegation or reported incident, regardless of whether or not a referral is subsequently made to a statutory agency. This report should be completed as soon as possible after the incident has taken place.

All reports/completed forms should be stored in a safe and secure location. The need for good record keeping at all stages of the child protection process cannot be overemphasised.

The Designated Liaison Person needs to be aware of the YMCA's Policy on Data Protection and also the Freedom of Information Act and their implications for the contents of reports on suspected child abuse allegations.

Where further information comes to light after the filing of a report, it is important that the original report is not adjusted in any way. In these circumstances it is recommended that a new document should be completed which will accompany the existing document.

Where a report is made to the statutory authorities, the possibility always exists that s/he may be called to give evidence should legal action take place, thus it is important that accurate records are kept.

## **Action to be taken when an allegation is made against employees, volunteers or other members of the YMCA**

### **Introduction**

The YMCA has a responsibility to make sure that volunteers/ staff are aware of the line management reporting procedures for dealing with allegations of abuse against volunteers, staff or other members of the YMCA.

When an allegation of abuse is made against a volunteer/ staff person, the YMCA has a dual responsibility in respect of both the young person

and the volunteer/ staff person or other accused person.

These guidelines are provided to assist line managers in having 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 hand.

The YMCA should, as a matter of urgency, take any necessary protective measures to ensure that no child is exposed to unnecessary risk.

## **General Procedures**

There are two procedures to be followed when allegations of abuse are made against volunteers or staff

- (i) The reporting procedure in respect of the child
- (ii) The procedure for dealing with the alleged abuser

In the YMCA where such an allegation is made, the same person will not have responsibility for dealing with the reporting issues and the employment/contractual issues.

The Designated Liaison Person will have responsibility for the young person. S/he may also deal with allegations made against a volunteer.

The National Secretary or other senior person will have responsibility for dealing with allegations made against an employee of the YMCA.

The Designated Liaison Person should follow the YMCA's standard reporting procedures outlined.

All stages of the process should be recorded

## **Procedure where an allegation is made against a volunteer**

If an allegation is made against a volunteer, the matter should be reported to the Designated Liaison Person. Action taken in reporting an allegation against a volunteer should be based on an opinion formed reasonably and in good faith. Any allegation should be assessed promptly and carefully. It will be necessary to decide whether a formal report should be made to the Health Services Executive and this decision needs to be made on reasonable grounds as outlined in the additional Appendix II document.

The following steps need to be taken:

- (i) The first priority is to ensure that no child is exposed to unnecessary risk. The Designated Liaison Person should as a matter of urgency take any necessary protective measures. These should be proportionate to the level of risk and should not unreasonably penalise the volunteer, unless necessary to protect children.
- (ii) If a decision is made to report the matter to the Health Services Executive, the Designated Liaison Person should follow the standard reporting procedure outlined. The Designated Liaison Person should inform the volunteer that an allegation has been made and explain the nature of the allegation. The volunteer should be afforded the right to respond. The response should be noted and passed to the Health Services Executive if a formal report is being made. The DLP should also notify the Health Services Executive of any other organisation working with children with the alleged abuser is thought to be involved.

- (iii) The parents/carers of the young person should be informed immediately. Advice should be taken from the statutory authorities as to how this might best be done.
- (iv) The follow up on an allegation of abuse against a volunteer should be made in consultation with the Health Services Executive or an Garda Siochana. An immediate meeting should be set up with these two agencies for this purpose.
- (v) After these consultations referred to in (iv) and when pursuing the question of the future position of the volunteer the DLP should advise the volunteer and the agreed procedures should be followed.
- (vi) The DLP should ensure that any actions taken to not undermine or frustrate any investigation being conducted by the Health Services Executive or an Garda Siochana. The DLP will maintain close liaison with the statutory authorities to maintain this.
- (vii) The person accused will need support pending an investigation. It would be unwise for this to be provided within the YMCA, and assistance will be given to the person to access these services outside the YMCA.

### **Procedure where a complaint or allegation has been made against an employee of the YMCA**

If an allegation or complaint is made against an employee, the matter should be reported to the National Secretary or another senior person within the National Council. Action taken in reporting an allegation against an employee should be based on an opinion formed reasonably and in good faith. All allegations will be assessed promptly and carefully. The National Secretary or other senior person within the National Council will decide whether a disciplinary procedure will be followed. The DLP will decide whether a formal report should be made to the relevant Health Services Executive. The decision about the formal report will be made on reasonable grounds for concern as outlined.

The following steps will be taken:

- (i) The first priority will be to ensure that no child is exposed to unnecessary risk. The National Secretary or other senior person will as a matter of urgency take any necessary precautionary measures. These measures will be proportionate to the level of risk and will not unreasonably penalise the employee financial or otherwise, unless necessary to protect children. Legal advice may be sought in this regard.
- (ii) If a decision by the DLP is made to report the matter to the Health Services Executive, the standard reporting procedure as outlined in Section 17 will be followed in respect of the young person. The National Secretary or senior person will inform the employee that an allegation has been made and explain the nature of the allegation. The employee should be afforded the right to respond in accordance with established grievance procedure. The response should be noted and passed to the Health Services Executive if a formal report is being made. The Health Services Executive will also be notified of any other organisation where the alleged abuser may have contact with children.
- (iii) The parents/carers of the young person should be informed immediately. Advice should be taken from the statutory authorities as to how this might best be done.
- (iv) The follow up on an allegation of abuse against an employee should be made in consultation with the Health Services Executive and an Garda Siochana. An immediate meeting should be arranged with these two agencies for this purpose.
- (v) After these consultations referred to above, and when pursuing the question of the future position of the employee, the chairperson of National Council will advise the employee and the agreed procedures followed.
- (vi) The YMCA will ensure that any actions taken by them do not undermine or frustrate any investigations being conducted by the Health Services Executive or an Garda Siochana.
- (vii) The person accused will need support pending an investigation. The YMCA will seek to provide this support using an external source for this purpose.

(viii) These procedures will apply in all cases, including where the employee is contracted on a part-time basis or consultancy basis.

### **Procedure to be followed where an allegation is made against another young person**

If an allegation is made against another young person, it should be considered a child protection issue for both the young people involved and the YMCA's child protection procedures should be followed. Advice should be sought from the statutory authorities with regard to informing the parents/carers of the young people concerned. Decisions regarding the future participation in the youth organisation of the young person alleged to have committed the abuse will be made at a management level.

### **Application of fair treatment**

Volunteers or employees about whom there are concerns should be treated fairly. They should be helped to understand the concerns expressed and the processes being operated, and be clearly informed of the outcomes of any investigation and its implications for their future employment or contractual arrangements with the YMCA. The investigation should be completed as soon as possible.

The fact that a legal action may not always be possible should not mean that action in relation to protecting children or disciplining the volunteer or employee should not be taken. It is important that any allegations are thoroughly assessed and a decision reached.