



# Early Years Child Protection Programme

## Questions & Answers on the Children First Act 2015

### AIM OF DOCUMENT

This document has been developed to provide information to early years services on the Children First Act, 2015.

It does not represent legal advice and all early years services should consult all the documentation to have a full picture of the new requirements.

The responsibility to ensure compliance with all legal requirements rests with the service owner or board of management.

For detailed information on the new legal requirements consult:

- **Children First National Guidance for the Protection and Welfare of Children**<sup>1</sup>. Download [here](#).
- **A Guide for Reporting Child Protection and Welfare Concerns**<sup>2</sup>. Download [here](#).
- **Guidance on Developing a Child Safeguarding Statement**<sup>3</sup>. Download [here](#).

All the documents can be downloaded from [www.tusla.ie](http://www.tusla.ie)

**Tusla Children First e-learning programme:** It is recommended that everyone involved in early years services including staff, board members and volunteers complete the Tusla Children First e-learning programme: Access is available [here](#).

<sup>1</sup> **Children First: National Guidance for the Protection and Welfare of Children**, DCYA, 2017

<sup>2</sup> **A Guide for Reporting Child Protection and Welfare Concern**, Tusla, 2017

<sup>3</sup> **Guidance on Developing a Child Safeguarding Statement**, Tusla, 2017

## Section 1 – Overview

### 1. WHAT IS THE CHILDREN FIRST ACT 2015?

The Children First Act, 2015 places elements of the *Children First Guidance* on a statutory footing. The key provisions in the Act that will affect early years services are:

- Mandated Reporting of Child Protection Concerns and child abuse over a certain threshold
- Requirement to have a Child Safeguarding Statement

**The Children First Act 2015 will commence in full on December 11<sup>th</sup>, 2017.**

### 2. WHAT IS THE CHILDREN FIRST NATIONAL GUIDANCE, 2017?

*Children First National Guidance* has been revised to reflect the new obligations under the Children First Act 2015.

The Guidance contains essential information for anyone working with children and for services - everyone working or involved in an early years service should read and be familiar with the contents.

Early years services will receive a copy of the Guidance through their local childcare committee. **It comes into operation on Dec 11<sup>th</sup>, 2017.**

### 3. WHEN DO THE NEW LEGAL REQUIREMENTS START?

See the below table for key dates:

DATE	WHAT IS HAPPENING?
December 11th, 2017	-Mandated Persons acquire new legal obligations to report child abuse - Relevant services are required to have a Child Safeguarding Statement – but have 3 months to comply
December 11th, 2017	- New <i>Children First National Guidance</i> and other support documents come into operation.
March 11th, 2018	-Existing Relevant Services have until this date to publish their Child Safeguarding Statement

### 4. WHAT RESPONSIBILITIES DO EARLY YEARS SERVICES HAVE?

Services working with children, whether in the public, private or voluntary sector, have an overall corporate responsibility to safeguard children using their services.

The Children First Act 2015 introduces statutory obligations for organisations providing services to children, as defined in that Act, to:

- Keep children safe from harm while availing of those services
- Carry out a risk assessment, and
- Prepare and publish a Child Safeguarding Statement.

## **5. WILL THE CHILDREN FIRST ACT, 2015 APPLY TO EARLY YEARS SERVICES?**

Yes, under the legislation early years services will have new legal obligations.

## **6. WHERE CAN I GET CHILD PROTECTION TRAINING?**

Always Children First Child Protection training – the standard course for the sector will be updated to reflect the new requirements and the new module will be available from March 2018.

This training is aimed at people with a lead role in child protection including:

- Designated Liaison Person (and deputy)
- Chairperson of board of management
- Manager/deputy manager

It is recommended that everyone involved in early years services complete the Tulsa e-learning module, *Introduction to Children First*, which provides introductory information on the new requirements. See p.1 for details of how to access the course.

## **Section 2 – Mandated Persons**

### **7. WHO ARE MANDATED PERSONS?**

Mandated Persons are people who have contact with children and families and who, because of their qualifications, training and/or employment role, are in a key position to help protect children from harm.

Many groups of professionals who will be Mandated Persons under the Act.

If you work in an early years setting you are a Mandated Person if you are:

- A person carrying on a pre-school service within the meaning of Part VIIA of the Child Care Act 1991.
- A child care staff member employed in a pre-school service within the meaning of Part VIIA of the Child Care Act 1991

If you run or own pre-school service that is required to register with the Early Years Inspectorate, then you are a Mandated Person.

For more information, see Chapter 3 of *Children First National Guidance* and the *A Guide for Reporting Child Protection and Welfare Concerns*.

## **8. WHAT ARE THE LEGAL OBLIGATIONS OF A MANDATED PERSON?**

Mandated Persons have two main legal obligations under the Children First Act 2015. These are:

- 1) To report the harm of children above a defined threshold to Tusla
- 2) To assist Tusla, if requested, in assessing a concern which has been the subject of a mandated report.

## **9. IS THE CHAIRPERSON OF THE BOARD OF MANAGEMENT OF A SERVICE A MANDATED PERSON?**

A person named as the registered provider with the Early Years Inspectorate is a Mandated Person. If this is the chairperson of the board of management then they will be a Mandated Person.

## **10. ARE CHILDMINDERS MANDATED PERSONS?**

Any childminder who is required to register with the Early Years Inspectorate is a Mandated Person.

## **11. ARE ANCILLARY STAFF SUCH AS KITCHEN, RECEPTION AND ADMINISTRATIVE STAFF MANDATED PERSONS?**

No, to be a Mandated Person you have to be a 'child care staff member' employed in a pre-school.

## **12. WHAT ARE THE RESPONSIBILITIES OF NON-MANDATED PERSONS?**

Child Safeguarding is everyone's responsibility.

Anyone working in a service who is not a Mandated Person must follow the *Children First National Guidance* and the service Safeguarding Policies. Child protection concerns that meet Reasonable Grounds for Concern must be reported to Tusla.

## **13. WHAT CAN I DO IF I AM UNSURE IF A REPORT IS A MANDATED REPORT?**

If you are unsure if a child protection concern meets the threshold for a mandated report, Tusla Duty Social work can be contacted for advice and guidance through the Informal consultation process.

A child protection concern that does not meet the threshold for a mandated report may still need to be referred to Tusla under the *Children First National Guidance*.

## **14. WHERE CAN I FIND DETAILS OF MY LOCAL TUSLA DUTY SOCIAL WORK TEAM?**

Contact details for your local Tusla Duty Social Work Team can be found at:

[www.tusla.ie/get-in-touch/duty-social-work-teams](http://www.tusla.ie/get-in-touch/duty-social-work-teams)

### **15. DO I NEED TO CHANGE MY CHILD PROTECTION REPORTING PROCEDURES?**

Yes, you will need to update your child protection and welfare reporting procedures to include details on how mandated reports will be made. See the Chapter 4 of *Children First National Guidance* and *Guidance on Developing a Child Safeguarding Statement*.

### **16. DO I STILL NEED A DESIGNATED LIAISON PERSON (DLP) FOR CHILD PROTECTION?**

Yes, *Children First National Guidance* recommends this as best practice. The DLP has an important role in a service – for more information on the role of the DLP see *Children First National Guidance*, p. 35.

Recommended best practice for early years services is that mandated reports be made *jointly* by the Mandated Person and the Designated Liaison Person.

### **17. CAN THE DESIGNATED LIAISON PERSON MAKE A REPORT ON BEHALF OF A MANDATED PERSON?**

No, the Mandated Person has a legal obligation to make the report to Tusla – to discharge the legal responsibility they have to make the report themselves or jointly.

### **18. IS THE STANDARD REPORT FORM GOING TO CHANGE?**

Yes. From December 11<sup>th</sup>, 2017 there will be 2 new forms for reporting child protection and welfare concerns:

- The Child Protection and Welfare Report Form
- Retrospective Abuse Report Form

Both will be available on [www.tusla.ie](http://www.tusla.ie) and can be submitted securely through the Tusla portal.

### **19. CAN THE MANDATED PERSON MAKE A REPORT ON THEIR OWN?**

Yes, however best practice is that the Designated Liaison Person be informed of the report and provided with a copy of the Child Protection and Welfare Report Form.

### **20. WHAT IS MANDATED ASSISTING?**

Tusla may request assistance from Mandated Persons when assessing a concern which has been the subject of a mandated report, regardless of who made the report. More information is available in the *Mandated Assisting Protocol: For Tusla Staff*<sup>4</sup> (download [here](#)).

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<sup>4</sup> Tusla, 2017.

## Section 3 - Child Safeguarding Statement

### 21. WHAT IS A CHILD SAFEGUARDING STATEMENT?

The Children First Act 2015 requires organisations that are providers of **Relevant Services** to prepare a Child Safeguarding Statement. This is a written statement that specifies the service provided and the principles and procedures to be observed in order to ensure, as far as practicable, that a child availing of the service is safe from harm.

### 22. WHO NEEDS TO HAVE A CHILD SAFEGUARDING STATEMENT?

Under the Act, Relevant Services are required to have a Child Safeguarding Statement. Early years services that meet **both** criteria below are Relevant Services and are legally required to have a Child Safeguarding Statement:

1. An establishment which provides **early years services** within the meaning of Part VIIA of the Child Care Act 1991
2. Employ one other person whether through contract, voluntary agreement or mutual agreement.

An **early years service** is either a pre-school service or a school-age service as defined under the Childcare Act 1991.

### 23. I AM A SOLO PROVIDER BUT I OCCASIONALLY EMPLOY RELIEF STAFF – DO I NEED A CHILD SAFEGUARDING STATEMENT?

Yes, you need to develop a Child Safeguarding Statement.

### 24. MY SERVICE HAS A CHILD PROTECTION & WELFARE POLICY – IS THIS THE SAME AS A CHILD SAFEGUARDING STATEMENT?

No. However, many of the policies and procedures contained in your Child Protection and Welfare Policy will be included in your Child Safeguarding Statement. However, all safeguarding policies should now be reviewed to ensure that they meet the new requirements.

### 25. WHAT IS IN A CHILD SAFEGUARDING STATEMENT?

For more information on what is in a Child Safeguarding Statement see Chapter 4 of *Children First National Guidance* and *Guidance on Developing a Child Safeguarding Statement*.