



OMBUDSMAN FOR CHILDREN'S OFFICE

CHILD PROTECTION PROCEDURES

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1. Reporting responsibility of staff

Safeguarding children is the responsibility of everyone. While the assessment and confirmation of alleged and actual abuse must be left to the appropriate professionals and agencies, all OCO staff have a responsibility to report child protection or welfare concerns that come to their attention through any aspect of our work to Tusla and/or the Gardaí and notified to the OCO Designated Liaison Person (DLP)¹. The procedures for reporting such concerns are detailed in this document. Concerns should be made directly to Tusla and/or An Garda Síochána by any staff members in cases where a child is considered to be at immediate risk of harm. Such referrals should be notified to the OCO's DLPs. In all other cases, staff should discuss concerns with the relevant Tusla Duty Social Work Team and, if needed, with the OCO's DLP. Further details of the procedures for reporting are provided in the sections that follow. All information regarding concerns relating to child protection and welfare must be recorded on Tusla's Child Protection and Welfare Reporting Form (CPWRF).

All OCO staff must create an online account with Tusla for the purpose of reporting CPW concerns. This can be done by going to <https://www.tusla.ie/children-first/web-portal/>.

2. Reporting and decision-making procedures

The procedures to be followed in relation to decision-making and referrals are two-fold and apply to: (i) instances where a child is deemed to be at **immediate risk of harm**; (ii) all other cases. The processes below for addressing these two situations apply to **ALL OCO STAFF**.

2.1 Cases where a child may be at immediate risk of harm

Any member of staff may receive a report, witness or have a suspicion that a child is or may have been abused, or is at risk of abuse. This information may be received in a number of ways: by telephone, email, letter, social media or in person. **In certain cases the child may be at immediate risk of harm.** In these cases the following actions must be taken as quickly as possible.

- i. The staff member notes the relevant information provided or incident witnessed. If possible under the circumstances, this should be recorded on the OCO's Child Protection and Welfare Template. This should include as many child identifiers (such as name, address, date of birth) as can be obtained and the cause for concern.

¹ Where to DLP is unavailable staff should notify of discuss child protection concerns with the Deputy DLP.

- ii. The staff member should immediately contact the relevant Tusla Duty Social Work Team, provide the information recorded and seek advice on whether a referral is needed. The contact details for Duty Social Work teams in each county are available at <http://www.tusla.ie/get-in-touch/duty-social-work-teams>.
- iii. If Tusla advise that a referral is required a Child Protection and Welfare Report Form (CPWRF) should be completed and submitted by the staff member without delay. This form and guidance on how to complete it is available at www.tusla.ie. The form should be submitted through the Tusla web portal unless otherwise advised by the Duty Social Work Team.
- iv. If it appears that there is an immediate risk to the child and contact cannot be made with Tusla, the staff member should report their concerns to the Gardaí.
- v. A note of any discussions with Tusla and/or the Gardaí as well as a copy of the CPWRF and the Child Protection Welfare Log must be provided to the OCO DLP as soon as possible.

2.2 All Other Child Protection and Welfare Concerns

In many instances, concerns regarding child protection and welfare will come to our attention through emails, telephone calls, letters or social media. It may be unclear if a referral or immediate action is required and, in particular, if the child and the concerns raised are already known to Tusla. Where these circumstances exist, **all staff** should implement the following procedures.

- i. The staff member records the relevant information provided in as much detail as possible on the Internal Child Protection and Welfare Log (ICPWL). This can be completed by hand or on computer and include as many child identifiers (such as name, address, date of birth) as can be obtained.
- ii. The staff member must explain to the person who is raising concerns or alleging abuse that, because of the nature of the concerns raised, the information cannot be kept confidential and that they have a duty to report it to the OCO's DLP and possibly to Tusla and/or the Gardaí.
- iii. If possible and necessary, consideration should be given to further contact with the person reporting the alleged harm to obtain greater clarity in relation to the concerns raised and the child's details. However, **under no circumstances** should this result in the staff member interviewing a child to substantiate or verify the allegations of harm. Where a staff member is in any doubt about this they should discuss this with the DLP.
- iv. The staff member should check their concerns against the reasonable grounds contained in *Children First* and decide if they need to take further action.
- v. It is acknowledged that some of these situations will be based on incomplete information and may not always be clear. Where this is the case it is essential that advice is sought from Tusla as soon as possible. The staff member should contact the relevant Tusla Duty Social Work Team, provide the information

- recorded and seek advice on (i) if the child and concern raised are already known to Tusla; (ii) if a referral is needed.
- vi. If Tusla advise that a referral is needed, the staff member should complete the CPWRF and submit it to the relevant Duty Social Work Team as soon as possible. This should be done through the Tusla web portal unless otherwise advised by the Duty Social Work Team.
 - vii. Where Tusla advise that a referral is not needed, but the staff member remains concerned about a child, they can seek to discuss this with the OCO's DLP and decide if further action is needed. Staff may also seek support and advice from the DLP in relation to the completion of an ICPWL.
 - viii. The staff member must record any actions they have taken and the outcome of these. The DLP and Deputy DLP must be made aware of all referrals to Tusla and staff must provide all records and completed ICPWL to them.
 - ix. Having reviewed a referral, the DLP and referring staff member will decide how any further actions or contact with Tusla/the Gardaí, if necessary, will be progressed.
 - x. In every case, both referrals and non-referrals, the OCO's ICPWL should be completed. These should be provided to the DLP as soon as possible. They should be accompanied by any additional relevant information, for example, any written information received from the reporter, the C&I case file number if one exists, information received from Tusla etc. This paper record will be held by the DLP or Deputy DLP. A new folder will be created for each case.
 - xi. **It is important to note that any staff member bringing child protection concerns to the DLP may, if the DLP's view is not to make a referral to Tusla, disagree with this view. Where this arises and the staff member believes that a referral is warranted, it is open to them to make a referral themselves. The staff member should inform the DLP of their intention to make such a referral before any action is taken.**
 - xii. **Complaints and Investigations staff** should record all information relating to possible or actual referrals, including completed ICPWLs, on the Complaints and Investigations drive (the Z, I or K drive). **All other staff** should record this information on their **personal drives**. A new sub-folder should be created for each case. All documentation, including scanned copies of paper based documents such as letters or receipts received from Tusla or the Gardaí in respect of child protection or welfare concerns should be stored in these locations. When a case brought to the attention of non-Complaints and Investigations staff is discussed with the DLP all documents relating to the referral stored on computer must be provided to the DLP, who will then transfer them to the Complaints and Investigations drive. Once this is done, the staff member should delete the files from their own computer, including from the Trash/Bin. **No information regarding potential or actual child protection referrals should be stored on the O drive.** The DLP should be informed when the file related to any individual case is updated.

- xiii. **Complaints and Investigations staff** should log all actions and decisions relating to Child Protection and Welfare cases on the excel sheet in the DLP and Staff Log of CPW Actions for the relevant year on the Z Drive. The DLP will complete this spreadsheet for all other staff.
- xiv. When a decision is made regarding a referral to Tusla or contact with the Gardaí, the person providing the information to the OCO and the parents/guardians of the child should be informed of such decisions. In the case of complaints made to Complaints and Investigations, this information may be included in letters regarding the complaint itself if appropriate. However, as per the *Children First* guidance this should **not** be done where (i) this will place the child at increased risk of harm, (ii) where it is reasonable to believe that doing so will impair Tusla's ability to investigate the concerns raised, and (iii) where it will expose the referrer to risk of harm from the reporter, parents or guardians. **All correspondence to the person providing the information and to guardians/parents of the child should advise that any follow up in relation to the referral should be directed to the DLP and relevant contact details provided.**

3. Reporting procedure in relation to allegations of abuse against a member of staff

If allegations of abuse of a child or young person are made against a staff member, the following procedure must be followed.

- i. All staff members have a duty to report suspected/alleged abuse of a child by another member of OCO staff, regardless of the position held by that staff member. In such cases staff should follow the procedures set out in section 2.1 above if it appears that there is an immediate risk of harm to a child and the procedures under section 2.2 in all other cases.
- ii. It is important that the DLP is informed of allegations made against a staff member as soon as possible as it is the role of the DLP to inform the Ombudsman for Children, the staff member's line manager and the human resources manager in writing of the report without delay. Staff seeking advice from Tusla on making referrals relating to another staff member should ensure that the DLP is informed in writing immediately.
- iii. The protection of the child must be the priority and any member of staff about whom allegations have been made must be removed from having direct contact with children, with immediate effect. This decision will be taken by the Ombudsman for Children.
- iv. Where it is unclear, following a discussion with the relevant Duty Social Work Team, if a referral should proceed, the relevant line manager and the DLP shall review the information received. If they are satisfied that there are reasonable grounds for the suspicion or allegation, the DLP will complete the CPWRF and

- submit this to Tusla without delay. The DLP will notify the Ombudsman for Children of this referral.
- v. The relevant line manager shall inform the member of staff in writing of the fact that an allegation has been made against him/her and the nature of the allegation. The member of staff shall be afforded an opportunity to respond. Where a report has been or will be made to the Tusla, the staff member's response will also be forwarded to Tusla.
 - vi. Internal disciplinary matters will be dealt with by the relevant line manager and human resources manager in accordance with the staff member's contract of employment and other relevant internal disciplinary rules. The issue of administrative leave will be assessed by the staff member's line manager and the human resources manager.
 - vii. If an allegation is made against the DLPs, the Deputy DLP and the Director will deal with the matter.
 - viii. Suspicions or allegations of harm against staff may turn out to be unfounded. It is very important that all OCO staff knows that if they raise a concern which, through the process of investigation, is not validated, they have not in any way been wrong in their initial action.
 - ix. Responsible action will be encouraged and those who report concerns enabled to feel confident of support.

Child Protection Procedures in the instance of allegation of abuse against the Ombudsman for Children

- x. The procedure below is based on the following events occurring:
 - Allegations are made to staff member or directly to the Ombudsman for Children regarding the Ombudsman. These must be reported to the Director of Complaints and Investigations and DLP for a decision regarding referral to Tusla/An Garda Síochána. Where the allegations are not made directly to the Ombudsman for Children, they must be notified of the allegations as soon as possible by the Director or, in their absence, the DLP.

The following assumptions are also made:

- It is assumed that there will be no obstacles to a referral being made to the appropriate authorities. Tusla and/or An Garda Síochána (AGS) will follow their own procedures from that point onwards. The options below refer only to how the Ombudsman for Children's Office (OCO) will address the matter in the period between a referral being made and the relevant authorities completing their investigation into the matter.
- It is assumed that, as in the case for all other members of OCO staff, the Ombudsman will cease to have direct contact with children in his role as

Ombudsman until such time as the matter is resolved by the relevant authorities.

- It is assumed that the procedures listed below will not interfere with any reasonable investigative actions by, or requests from Tusla and/or AGS.

Procedure to be followed

- xi. If an allegation is made against the Ombudsman for Children, this should initially be dealt with in accordance with the procedures set out in sections 2 and 3 above.
- xii. If a referral has been made to Tusla/AGS by the OCO DLP, the Ombudsman will write to the Secretary General at the Office of An Taoiseach to notify them that allegations have been made and referred to Tusla/AGS.
- xiii. Panel established to review the allegations and determine what leave, if any, is required by the Ombudsman. This panel should consist of (i) Director of C&I, (ii) a Children's Commissioner from England, Scotland, Northern Ireland or Wales, and (iii) the HR Specialists (the OCO's HR advisors). In such circumstances the provisions of Section 4(3) of the Ombudsman for Children Act, 2002 will be brought to the attention of the chair of this committee.
- xiv. The purpose of this panel is to:
 - (i) review the allegations and to determine if the Ombudsman is required to take leave;
 - (ii) make recommendations in relation to any leave required of the Ombudsman for Children, including the nature and duration of any leave considered necessary, with regard to the appropriateness and legality of same.
- xv. Recommendations of the review will be communicated to the Ombudsman, the Secretary General at the Office of the Taoiseach and any other relevant parties by the Director of C&I.

4. Reporting procedure in relation to allegations of abuse against a third party contractor employed by an external institution

- i. If the OCO is notified that an allegation of harm has been made to or against a third party contractor employed by an external institution, assurances must be sought from that institution that these allegations have been appropriately addressed by them.
- ii. The protection of the child must be the priority and the individual about whom allegations have been made must be removed from having direct contact with children on behalf of the OCO with immediate effect and until such time as the allegations are investigated by the appropriate authorities.

5. Confidentiality and the exchange of information

Confidentiality

The effective protection of a child often depends on the willingness of staff 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 concerns of child abuse should be shared with relevant OCO staff and external child protection agencies on a 'need to know' basis and with consideration of the best interest of the child.

No undertakings regarding secrecy can be given to those reporting alleged abuse. OCO staff 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. A staff member who receives a disclosure will explain to the informant that the nature of the information disclosed means that it cannot be kept confidential and that they have a duty to report it to the OCO's Designated Liaison Person and possibly to Tusla or the Gardaí.

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 of children. The provision of information to Tusla and An Garda Síochána for the protection of a child is not a breach of confidentiality or data protection.

The issue of confidentiality will be part of the training provided to staff working in the OCO.

Exchange of information

Arrangements for child protection can only be successful if the staff of the OCO work in partnership and share relevant information, in particular with Tusla and An Garda Síochána.

6. Reasonable grounds for concern

Examples of reasonable grounds for reporting allegations or suspicions of child abuse are included in *Children First 2017*. These are included in Appendix 1 below. A suspicion which is not supported by any objective indication of abuse or neglect would not

generally constitute a reasonable suspicion or reasonable grounds for concern. However, information which raises concern may be passed on to Tusla in the absence of any objective indications, having regard to the reasonable grounds.

It is important that persons reporting suspected child abuse to Tusla and/or An Garda Síochána should establish the basis for their concerns. At the same time, they should not interview the child or the child's parents/carers in any detail about the alleged abuse without first consulting Tusla; this may be more appropriately carried out by the Tusla social worker or An Garda Síochána.

7. Legal Protections for those reporting child protection concerns

There is legal protection for persons reporting child protection concerns. The Protection 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 individuals. This means that even if a communicated suspicion of child abuse proves unfounded, a plaintiff who took action would have to prove that the person who communicated the concern has 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.

8. Role of the Designated Liaison Person (DLP) and Relevant Person

The Designated Liaison Person (DLP) is responsible for ensuring that reporting procedures within an organisation are followed, so that child welfare and protection concerns are referred promptly to Tusla. The name and contact details of the OCO's DLPs will be publicly displayed and made known to everyone involved in the organisation and its activities (workers, children and young people, parents and guardians). The OCO will always have more than one DLP at any one time and will designate staff members to fulfil this role.

The roles of the DLP are:

- to act as a liaison with the statutory agencies responsible for receiving, handling and investigating child protection concerns (i.e. Tusla and An Garda Síochána);
- to act as a resource and follow up contact for any person (staff member, child or young person, parent or guardian etc.) who raises child protection concerns with the OCO;
- to ensure that the standard reporting procedure is followed, so that suspected cases of child neglect or abuse are referred promptly to Tusla or, in an emergency / as required, to An Garda Síochána;

- to ensure that a complete written record is kept in relation to all child protection concerns brought to their attention, including subsequent action taken by the OCO, all communications with the statutory authorities, and an acknowledgement of the referral by Tusla and/or An Garda Síochána

Where a staff member is in discussion with the DLP about a potential referral, and where the DLP is of the view that a concern does not require a referral to Tusla, the DLP must:

- Record the reasons for not reporting
- Record any actions taken as a result of the concern
- Provide the employee or volunteer who raised the concern with a clear written explanation of the reasons why the concern is not being reported to Tusla
- Advise the employee or volunteer that if they remain concerned about the situation, they are free to make a report to Tusla or An Garda Síochána

Concerns relating to CPW may arise while staff are working with children for the OCO outside of office hours. As above, staff should first seek to contact the relevant Tusla Duty Social Work Team if possible. However, allowing for difficulties in doing so outside of office hours, it may be necessary to seek the advice of the OCO's DLPs. To facilitate contact with the OCO's DLP, if necessary, in such circumstances, mobile phone numbers for the DLPs will be provided to staff engaged in such work. In order to ensure that a DLP is available if need, the staff member should:

- Agree with the DLPs well in advance who will be available for calls;
- Ensure that the DLPs are aware well in advance of the specific hours during which they may be needed to take a call.

Where no DLP is available outside normal working hours, a staff member who requires support in relation to a concern about a child should contact Tusla for advice.

Relevant Person

The OCO will designate a staff member to the role of relevant person as per Children First 2017. They will be the first point of contact for the Child Safeguarding Statement and will undertake annual audits to ensure on-going compliance with Children First 2017.

9. Receiving allegations of harm from children and young people

While child protection and welfare concerns reported by adults must be handled sensitively and recorded accurately and in as much detail as possible, particular care

must be taken when allegations of abuse are made by children and young people. In such cases, it is the responsibility of staff to which allegations are disclosed to:

- listen to the child or young person rather than questioning them;
- allow the child or young person to freely record events;
- explain to the child or young person what you have to do and who you have to tell;
- record the discussion accurately and in writing as soon as possible after the allegations are made, using CPWRF;
- follow the procedures detailed in section 2 or 3 above.

10. Safeguarding practices when meeting children and young people

OCO staff will observe the following practices when meeting with children and young people.

- Where possible, there will be at least two adults present at all OCO organised events, meetings and activities for children and young people.
- Staff will keep a written record of any instances where an OCO staff member has been alone in a private space with a child. In situations where it is unavoidable that a member of staff will meet alone with a child or young person - such as a request from a child or young person to speak confidentially – the member of staff will inform a colleague that such a meeting is taking place.
- The member of staff will meet the child/young person in a safe space and, whenever practicable, in a room with transparent walls so that s/he and the child/young person are visible to others. Where such a space is unavailable on or off site, the staff member will take practical steps to mitigate this – for example, notifying a colleague and/or an adult present on the premises that the meeting is taking place; asking a colleague and/or an adult present on the premises to sit in on the meeting; leaving the door to the room where the meeting is taking place open; asking an adult present on the premises to check-in on the meeting at regular intervals (e.g. every 15 minutes); and/or audio-recording the meeting.
- Staff will keep a record of children and young people participating in activities/events organised by the OCO. This will include a copy of the signed parental/guardian consent form or letter and the young person's assent form.
- A written record of OCO staff in attendance at events shall also be kept.
- Children and young people are not to be permitted to work or remain in the OCO office unless there are at least two staff members present.

11. Safe recruitment and selection procedures

In accordance with section 21 of the Ombudsman for Children Act 2002, the staff of the Ombudsman for Children's office are considered to be civil servants in the Civil Service of the State.

The Ombudsman for Children's Office follows a rigorous recruitment and selection process for all job applicants. With regard to child protection this process includes:

- i. ensuring their contract makes explicit reference to the OCO's Child Protection Policy and corresponding duty to report child protection concerns;
- ii. ensuring that all information provided by applicants is validated and verified and that any information gaps are queried and validated;
- iii. making offers of employment subject to satisfactory references, which will include a reference from the current or most recent employer (a minimum of two references will be sought);
- iv. ensuring that offers of employment are subject to Garda vetting; third parties contracted to conduct work with children and young people will also be subject to Garda vetting in accordance with the National Vetting Bureau (Children and Vulnerable persons) Act 2012-2016
- v. successful applicants must sign a declaration form which obliges them to disclose any information that may affect their suitability for employment in the Office of the Ombudsman for Children (any information about their suitability withheld during the recruitment process may result in the termination of the person's employment);

This process applies to all paid staff working with the Ombudsman for Children's Office, whether on a permanent or temporary basis.

Appendix 1

Reasonable Grounds for Concerns

You should always inform Tusla when you have reasonable grounds for concern that a child may have been, is being, or is at risk of being abused or neglected. If you ignore what may be symptoms of abuse, it could result in ongoing harm to the child. It is not necessary for you to prove that abuse has occurred to report a concern to Tusla. All that is required is that you have reasonable grounds for concern. It is Tusla's role to assess concerns that are reported to it. If you report a concern, you can be assured that your information will be carefully considered with any other information available and a child protection assessment will be carried out where sufficient risk is identified.

Reasonable grounds for a child protection or welfare concern include:

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

Children First National Guidance for the Protection and Welfare of Children, 2017, p6