

# Gaelscoil Chill Mhantáin

## Children First: National Guidance for the Protection and Welfare of Children

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### 3. Basis for reporting concerns and Standard Reporting Procedure

#### 3.1 Purpose

3.1.1 This chapter offers guidance to the general public and to all people, both professional and voluntary, working with or in direct contact with children who may be concerned or who suspect that children are being abused or neglected or at risk of abuse or neglect. It outlines the standard reporting procedure to be used in passing information to the statutory authorities about child protection concerns.

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

3.2.1 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. It is also an important responsibility for staff and people involved in sports clubs, community activities, youth clubs, religious/faith sector and other organisations catering for children.

3.2.2 The HSE Children and Family Services 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.

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

3.2.4 A concern about a potential risk to children posed by a specific person, even if the children are unidentifiable, should also be communicated to the HSE Children and Family Services.

3.2.5 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 the HSE Children and Family Services.

3.2.6 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.

3.2.7 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.

3.2.8 The HSE 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 the HSE. 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.

14 3.2.9 Any professional who suspects child abuse or neglect should inform the parents/carers if a report is to be submitted to the HSE Children and Family Services or to An Garda Síochána, unless doing so is likely to endanger the child.

3.2.10 The HSE 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.)

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

3.3.1 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 the HSE Children and Family Services or in the event of an emergency and the unavailability of the HSE, 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.

### **3.4 Standard Reporting Procedure**

3.4.1 Any person reporting a child abuse or neglect concern should do so without delay to the HSE Children and Family Services. A report can be made in person, by telephone or in writing. Contact numbers for all HSE offices nationwide are given in Appendix 2 of this national guidance and are also available on the HSE website ([www.hse.ie](http://www.hse.ie)) or through the HSE LoCall Tel. 1850 241850.

3.4.2 Before deciding whether or not to make a formal report, you may wish to discuss your concerns with a health professional or directly with the HSE Children and Family Services (see HSE contacts in Appendix 2).

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

3.4.4 The Standard Report Form for reporting child welfare and protection concerns to the HSE (see Appendix 3) 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 the HSE Children and Family Services. If a report is made by telephone, this form should be completed and forwarded subsequently to the HSE.

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

### **3.5 Information to be included when making a report**

3.5.1 The ability of the HSE Children and Family Services or An Garda Síochána to assess and investigate suspicions or allegations of child abuse or neglect will depend on the amount and quality of information conveyed to them by the people reporting concerns. As much as possible of the following detail should be provided: Children First: National Guidance for the Protection and Welfare of Children<sup>15</sup> Chapter 3: Basis for reporting concerns and Standard Reporting Procedure

(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 contact details of the person reporting concerns;

(iv) whether the person reporting is a professional, a person working with children or a member of the public;

- (v) the relationship to the child of the person making the report;
- (vi) a full account of what constitutes the grounds for concern in relation to the protection and welfare 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.

### **3.6 Retrospective disclosures by adults**

3.6.1 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.

3.6.2 If any risk is deemed to exist to a child who may be in contact with an alleged abuser, the counsellor/ health professional should report the allegation to the HSE Children and Family Services without delay.

3.6.3 The HSE 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.hse-ncs.ie/en](http://www.hse-ncs.ie/en)). The service can be accessed either through healthcare professionals or by way of self-referral (Freephone 1800 477477).

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

3.7.1 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.<sup>16</sup> Children First: National Guidance for the Protection and Welfare of Children

3.7.2 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.

3.7.3 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.

### **3.8 Cases not reported to the HSE or An Garda Síochána**

3.8.1 In those cases where an organisation decides not to report concerns to the HSE or An Garda Síochána, the individual employee or volunteer who raised the concern should 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, the HSE 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' (see Paragraph 3.10.1).

### **3.9 Confidentiality**

3.9.1 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.

3.9.2 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.

3.9.3 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.

3.9.4 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.

3.9.5 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.

3.9.6 The issue of confidentiality should be 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. Each organisation should have a written policy in this regard.

### **3.10 Legal protection**

3.10.1 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 the HSE (see Appendix 10) 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.<sup>17</sup> Chapter 3: Basis for reporting concerns and Standard Reporting Procedure

3.10.2 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.

### **3.11 Freedom of information**

3.11.1 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 the HSE, but not to An Garda Síochána.

3.11.2 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 the HSE 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.

3.11.3 A full list of the relevant legislation concerning child protection and welfare is provided in Appendix 7 of this national guidance.