**INFORMATION SHEET**

**Mandated Persons**

***The following information has been developed by your local Children and Young Persons Services Committee- CYPSC, and outlines the role of the Mandated Person under the Children First Act 2015. For further detailed information Tulsa have a short e-learning programme which is universally available, free of charge and generates a certificate. This can be accessed through the link below:***

**Mandated Persons Module:** [**https://www.tusla.ie/children-first/mandated-persons/**](https://scanner.topsec.com/?r=show&d=2104&u=https%3A%2F%2Fwww.tusla.ie%2Fchildren-first%2Fmandated-persons%2F&t=dd2845004356b29ae93af7d40eda62a74b703f09)

**Am I a Mandated person?**

Schedule 2 of the Children First Act, 2015 specifies classes of persons as mandated persons for the purposes of the Act. If your role or qualification is specifically described on the list then you are a mandated person. *(See Schedule 2 at the end of this sheet),*

If you are not listed on Schedule 2, you are not a mandated person. Many workers or volunteers working with children are not mandated persons under the Children First Act, 2015, however, if you are not listed this does not mean you do not have the same responsibility to report child protection concerns to Tusla or An Garda Sióchána.

**If I am on the list what are my legal obligations as a Mandated Person?**

Mandated Persons have certain legal obligations under the Children First Act 2015 and these are:

• To report the harm of children above a defined threshold to Tusla

• To assist Tusla, if requested, in assessing a concern, which has been the subject of a mandated report.

As a mandated person, under the legislation you are required to report any knowledge, belief or reasonable suspicion that a child has been harmed, is being harmed, or is at risk of being harmed. **The Act defines harm as assault, ill-treatment, neglect or sexual abuse, and covers single and multiple instances.**

**What are the consequences of not reporting for Mandated Persons?** You should be aware that there are possible consequences for a failure to report if it emerges that you did not make a mandated report or assist when requested and a child was subsequently left at risk or harmed. Tusla may make a complaint to the Fitness to Practise Committee of a regulatory body of which you are a member for eg. The Medical Council, CORU, or Teaching Council. In addition, information in relation to your failure to make a report can be passed to the National Vetting Bureau of An Garda Síochána. This information could be disclosed to your current or future employers when you are next vetted. In general, many employers consider a failure to report a child protection concern to be a disciplinary matter. Employers are encouraged to include references to obligations in relation to mandated reporting in codes of conduct and contracts of employment for relevant persons.

 The Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 requires that any person who has information about a serious offence against a child, which may result in charges or prosecution, must report this to An Garda Síochána. Failure to report under the Act is a criminal offence under that legislation. This obligation is in addition to any obligations under the Children First Act 2015.

**How do I contact a Social Worker as a Mandated Person?** If you are in doubt as to whether your concern reaches the legal definition of harm for making a mandated report, Tusla can provide advice in this regard. Tusla’s social work departments can be contacted through Dedicated Contact Points – details can be found here - <https://www.tusla.ie/get-in-touch/duty-social-work-teams/>

If you feel the concern may require urgent intervention to make the child safe, The Children First Act, 2015 allows you to alert Tusla of the concern in advance of submitting a written report. You must then submit a mandated report to Tusla within 3 days.

**If you cannot contact Tusla and have an immediate concern about the safety of a child, please contact An Garda Síochána without delay.**

A mandated person who makes a report to Tusla or An Garda Síochána is protected from civil liability under the Protections for Persons Reporting Child Abuse Act 1998. Tusla is obliged to acknowledge in writing all mandated reports they receive.

**Making a Mandated Report- Out of hours**

Mandated persons can now access Tusla's emergency out-of-hours social work service. If as a mandated person you have a concern about a child you can contact our out-of-hours social work service on 0818 776 315 between 6pm and 6am every night and between 9am and 5pm on Saturdays, Sundays and bank holidays.

**Mandated persons who work with adults**

You may find yourself working with people whose health and behaviour has harmed or may harm a child. If there are concerns, which meet or exceed the thresholds outlined above, then you must report them to Tusla under the Children First Act 2015. However, you can also refer reasonable concerns below that threshold to Tusla.

**Dealing with a retrospective allegation**

If, as a mandated person, you provide counselling, it is recommended that you let your clients know, before the counselling starts, that if any child protection issues arise and the alleged perpetrator is identifiable, you must pass the information on to Tusla. If your client does not feel able to participate in any investigation, Tusla may be seriously constrained in their ability to respond to the retrospective allegation.

**Mandated Assisting**

Under the Children First Act 2105 there is a statutory requirement for mandated persons to assist Tusla in the assessment of risk of mandated reports, where requested to do so. All mandated persons can be asked by Tusla to provide **any proportionate and necessary assistance** to aid Tusla in assessing the risk to a child arising from a mandated report. You must comply with this request, regardless of who made the report.

**Tusla accepts the time limitations and pressures on other professionals and will use mandated assisting only when necessary and only to the extent needed for each specific case.** Mandated assistance may include a request to supply further information over the phone, produce a verbal or written report or attend a meeting.

**Exemptions on the requirement to report as a mandated person:** There are certain exemptions from reporting underage consensual sexual activity under the Children First Act 2015. If you are satisfied that all of the following criteria below are met, you are not 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

**Note:** If you still have outstanding concerns even where all the criteria are met, you may make a report to Tusla.

**Sharing information and Data Protection**

The Data Protection Acts and GDPR do not prevent the sharing of information on a proportionate and necessary basis for the purposes of child protection. Tusla has the authority to share information concerning a child who is the subject of a risk assessment with a mandated person who has been asked to provide assistance. Information that Tusla shares with you, if you are assisting it to carry out an assessment, must not be shared with a third party, unless Tusla considers it appropriate and authorises in writing that the information may be shared. This is in keeping with the principles of data protection, which recognise that in certain circumstances information can be shared in the interests of child protection, but that such sharing must be proportionate and necessary.

**Section 17 of the Children First Act 2015**

This Section makes it an offence for you to disclose information to a third party, which has been shared by Tusla during the course of an assessment, unless Tusla has given you written authorisation to do so. If you fail to comply with this section, you may be liable to a fine or imprisonment for up to six months or both. This offence can also be applied to an organisation.

**CHILDREN FIRST ACT, 2015**

SCHEDULE 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 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 inaccordance with Part 4 of the Health and Social Care Professionals Act 2005 in theregister 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 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 childrenreside 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