

Appendix 1: Legislation Context for Child Protection and Welfare Policy

LEGISLATION

CHILD CARE ACT 1991 / 2001

The Child Care Act 1991 focuses on the child and the promotion of the child's welfare. It raised the age of a child up to the age of 18 years, unless they are or have been married. It also places a statutory duty on Tusla to identify children who are not receiving adequate care and protection, to promote their welfare and to provide child care and family support services. The Act also places a statutory duty on the Gardaí to protect children and, under Section 12 of the Act, they can remove a child to a place of safety.

PROTECTION FOR PERSONS REPORTING CHILD ABUSE ACT 1998

This Act is designed to ensure that there are no barriers for persons wishing to report a concern about child abuse or welfare to Tusla or An Garda Síochána.

PROTECTED DISCLOSURES ACT 2014

The Act aims to protect people who raise concerns about possible wrongdoing in the workplace. The Act, which came into effect on 15 July 2014, is often called the whistleblower legislation. It provides for redress for employees who are dismissed or otherwise penalised for having reported possible wrongdoing in the workplace.

CRIMINAL JUSTICE ACT 2006 – Reckless Endangerment

Section 176 of the Act creates an offence where a person who has authority or control over a child or over a person who has abused a child intentionally or recklessly endangers the child by causing or permitting the 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 failing to take reasonable steps to protect a child from such a risk while knowing that the child is in such a situation.

CRIMINAL JUSTICE (WITHHOLDING OF INFORMATION ON OFFENCES AGAINST CHILDREN AND VULNERABLE PERSONS) ACT 2012

This Act establishes in Irish law an offence of withholding information from the Gardaí in relation to specified offences committed against a child or vulnerable person. The Act also provides for a number of defences against a charge of withholding information. As this piece of legislation is very complex in nature, we would recommend organisations get legal advice on the implications of it for their own organisation.

Title: Appendix 1 – Legislation Context	
Department: 003	Policy Number: 067
Version Number:4.0	Effective Date: 11th December 2017
Full Policy ID Number: 003.067.4.0	Page 1 of 4

Appendix 1: Legislation Context for Child Protection and Welfare Policy

FREEDOM OF INFORMATION ACT 2014 & DATA PROTECTION ACTS 1988 & 2003

These Acts give rights to individuals to access their own records and to have inaccurate data rectified or erased. There are implications for anyone recording data to ensure that it is fairly collected, accurate, kept for lawful purposes and not disclosed inappropriately.

NATIONAL VETTING BUREAU (CHILDREN AND VULNERABLE PERSONS) ACTS 2012-2016

This Act was enacted in December 2012, but has not yet been commenced (come into effect). The Act makes it mandatory for persons working with children or vulnerable adults to be vetted, whereas at present this is done on the basis of a voluntary code. It will also create offences and penalties for persons who fail to comply with its provisions.

CHILDREN FIRST ACT 2015

The Children First Act 2015 (the Act), which was signed into law on 19 November 2015, puts elements of the Children First: National Guidance for the Protection and Welfare of Children (2017) on a statutory footing. This legislation forms part of a suite of child protection legislation which includes the National Vetting Bureau (Children and Vulnerable Persons) Acts, 2012-2016 and the Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012. It is designed to strengthen the safeguarding and protection of children.

CRIMINAL LAW (SEXUAL OFFENCES) ACT 2017

This Act addresses the sexual exploitation of children and targets those who engage in this criminal activity. It creates offences relating to the obtaining or providing of children for the purposes of sexual exploitation. It also creates offences of the types of activity which may occur during the early stages of the predatory process prior to the actual exploitation of a child, for example, using modern technology to prey on children and making arrangements to meet with a child where the intention is to sexually exploit the child. The Act also recognises the existence of underage, consensual peer relationships where any sexual activity falls within strictly defined age limits and the relationship is not intimidatory or exploitative.

Title: Appendix 1 – Legislation Context	
Department: 003	Policy Number: 067
Version Number:4.0	Effective Date: 11th December 2017
Full Policy ID Number: 003.067.4.0	Page 2 of 4

Appendix 1: Legislation Context for Child Protection and Welfare Policy

POLICY CONTEXT



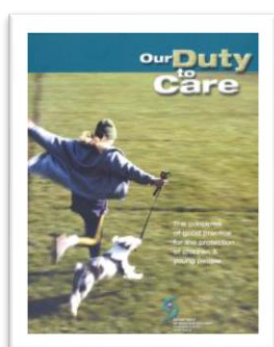
CHILDREN FIRST: NATIONAL GUIDANCE FOR THE PROTECTION AND WELFARE OF CHILDREN (2017)

This 2017 version of Children First supersedes the previous version of 1999 and 2010 and should be the only one in use. It is the reference point for practice and policy development. It applies to all those working in a voluntary or paid capacity with children and families, and outlines their roles and responsibilities in relation to recognising and responding to child protection and welfare concerns.



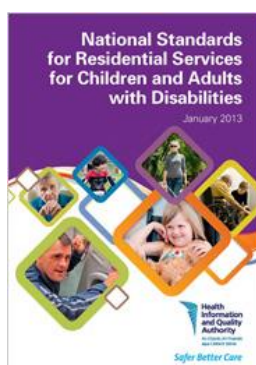
CHILD PROTECTION AND WELFARE PRACTICE HANDBOOK (2011)

This is a reference document designed to complement Children First and support skilled professionals in Tusla and allied agencies. It provides detailed practice guidance for staff in allied organisations on recognising, reporting and recording abuse and welfare concerns. Although it is primarily written for Tusla staff, it contains a wealth of information that is useful for allied agencies, for example, in-depth information on neglect, risk factors and a checklist for multi-agency contribution to assessments.



OUR DUTY TO CARE – THE PRINCIPLES OF GOOD PRACTICE FOR THE PROTECTION OF CHILD AND YOUNG PEOPLE

This offers specific guidance to the community and voluntary sectors on the promotion of practices that safeguard children. The document includes information on the correct steps to be taken if child abuse is suspected, witnessed or disclosed. It also contains information on developing safe recruitment procedures and policies. It should be read in conjunction with Children First and the Child Protection and Welfare Practice Handbook.



HIQA REGULATIONS

National Standards for Residential Services for Children and Adults with disabilities: *The prevention, detection and response to abuse, including reporting of concerns and/or allegations of abuse to statutory agencies under the Health Care Act 2007*

Title: Appendix 1 – Legislation Context	
Department: 003	Policy Number: 067
Version Number:4.0	Effective Date: 11th December 2017
Full Policy ID Number: 003.067.4.0	Page 3 of 4

Appendix 1: Legislation Context for Child Protection and Welfare Policy

ST. CATHERINE'S POLICIES & GUIDELINES

SCA Intimate Personal Care Policy
SCA Protection & Safeguarding Policy
SCA Positive Behaviour Support Policy
SCA Supervision in the Workplace Policy
SCA Staff Recruitment & Selection
SCA Trust in Care
SCA Guidelines on Peer Abuse (Appendix 4)
Procedures for supporting Children attending medical appointments

Title: Appendix 1 – Legislation Context	
Department: 003	Policy Number: 067
Version Number:4.0	Effective Date: 11th December 2017
Full Policy ID Number: 003.067.4.0	Page 4 of 4