

# Child Protection Programme

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## Guidance for the Youth Work Sector on **Managing Complaints & Allegations Against Staff & Volunteers**

## National Youth Council Of Ireland

The National Youth Council of Ireland (NYCI) is the representative body for national voluntary youth work organisations in Ireland. It represents and supports the interests of voluntary youth organisations and uses its collective experience to act on issues that impact on young people.

[www.youth.ie](http://www.youth.ie)

## NYCI Child Protection Programme

The NYCI Child Protection Programme supports and resources the youth work sector to meet its child safeguarding and child protection responsibilities. The programme is funded by the Department of Children, Equality, Disability, Integration and Youth (DCEDIY).

[www.childprotection.ie](http://www.childprotection.ie)

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**An Roinn Leanaí, Comhionannais,  
Míchumais, Lánpháirtíochta agus Óige**  
Department of Children, Equality,  
Disability, Integration and Youth

The NYCI Child Protection Programme is funded by the Department of Children, Equality, Disability, Integration and Youth.

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Registered Charity No. CHY 6823.  
Company No. 58814.

**First published by:**

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**ISBN no:** 978-1-900210-82-9

## Foreword

The Child Protection Programme is based in the National Youth Council of Ireland and is funded by the Department of Children, Equality, Disability, Integration and Youth.

The Child Protection Programme is dedicated to supporting the youth work sector to meet its responsibilities in relation to child safeguarding and protection. The Programme supports the sector through the provision of training, resource materials, support and guidance, and advocacy on behalf of the youth work sector.

This guidance document has been written for those who are working and volunteering in the youth work sector in a range of youth services, projects, and clubs. It is particularly aimed at those in positions of responsibility such as:

- > Board of Management
- > Youth Service Managers
- > Senior Youth Workers and Volunteers

to assist them to identify and meet their responsibilities in relation to responding to complaints of poor practice and allegations in relation to child abuse within their service.

This resource is designed to provide guidance on how to ensure that complaints and allegations are responded to in an effective and timely manner.

**This guidance is not intended to provide or replace legal advice.**

This guidance is divided into two parts

Part 1 – Responding to Complaints

Part 2 – Responding to Allegations

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## Acknowledgements

Sincere thanks to Olive Ring and Louise Monaghan for the development of the content of this resource and to all organisations of the Child Safeguarding Committee for the Youth Work Sector for participating in consultations as part of the development of this resource.

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## Glossary

### Complaint

A complaint can be in relation to any part of the service, a decision made about something that affects a complainant, being denied a service, a change in service provision, management of the service, a member of staff or volunteer, students etc.

### Allegation

A Safeguarding (and Child Protection) allegation is a situation where it is alleged that any person working for or volunteering in a youth organisation has:

- > Behaved in a way that has harmed a child/ young person, may have harmed a child/ young person, or might lead to a child being harmed.
- > Possibly committed or is planning to commit a criminal offence against a child or related to a child.

### Complainant

The party who makes the complaint.

### Respondent

The party against whom the complaint is made.

### Named Person

The person identified in the organisation who manages complaints.

### Designated Liaison Person

The person appointed by the organisation to act as a resource to any staff member/ volunteer who has a child protection or welfare concern. DLPs are responsible for ensuring that organisational reporting procedures are followed correctly and promptly and act as a liaison person with the statutory agencies.

### Code of Behaviour

A code of behaviour for workers and volunteers provides clarity regarding acceptable and unacceptable practices.

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## Introduction

Everyone working and volunteering in a youth service/club/project has a responsibility to ensure that all young people are treated fairly and that the service provided is transparent and open to feedback from all stakeholders.

At the outset, the organisation needs to triage whether the information they have received is an allegation of abuse (harm as defined under Children First or reasonable grounds for concern), a complaint about a breach of the Code of Conduct or poor practice, or a complaint about some aspect of service provision.

## Triaging Information

Triaging the information you receive is an important part of the initial process in order to ensure the appropriate response is taken. In some instances, it may not immediately be clear whether an incident constitutes a complaint of poor practice or an allegation of child abuse. It is important to remember that in order for an incident to be classified as an allegation of child abuse, the alleged incident has to be sufficiently serious as to suggest that harm has been caused, is being caused, or may be caused to a child/young person, or that the alleged behaviour indicates that the individual may pose a risk of harm to children/young people. When we talk about harm, we are referring to harm as defined under Children First:

- a. assault, ill-treatment or neglect of a child in a manner that seriously affects or is likely to seriously affect the child's health, development, or welfare

- b. sexual abuse of a child, whether caused by a single act, omission or circumstance, or series or combination of acts, omissions or circumstances or otherwise.

Breaches of the organisation's Code of Behaviour may be classified as a complaint of poor practice depending on what was breached and depending on the severity of the incident. A breach of the Code of Behaviour is still considered serious even if it does not reach the threshold of causing harm to a child. Breaches of the Code of Behaviour may indicate that a person's behaviour could pose a risk of harm to children if it is not addressed. Issues that do not meet the threshold for harm may constitute conduct or disciplinary issues and should be addressed by organisations using the appropriate organisational procedure.

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Below are some sample questions to assist organisations to triage information and identify whether something is a complaint or an allegation of abuse. This list is not prescriptive or exhaustive and there may be additional questions for organisations to consider depending on the nature of the incident.

1. Before I decide what response is required, is there anything else I can do to assist in my decision-making?
2. What information do I need in order to decide what response is required and where can I find it?
3. Who should I or who can I talk to about this (eg: complainant, respondent, witnesses, parents)?
4. Are there any records or documentation I can check?
5. Does the information refer to any of the categories of abuse? eg: physical, emotional, sexual and neglect.
6. If so, can you identify which category of abuse this falls under and what specific features of this type of abuse does it relate to?
7. Are there reasonable grounds for concern and/or has the threshold of harm been reached (as defined in Children First)?
8. Does the information relate to criminal/illegal activity? If so what offence has been committed?
9. Do I need to consult with the statutory authorities (Tusla or An Garda Síochána)?
10. Does this person pose a risk to children based on the current information?
11. Does the information indicate this person may be unsuitable to work with children/young people?
12. Does the information relate to an aspect of service provision?
13. Does the incident relate to poor practice or a breach of the Code of Behaviour that does not meet the threshold for harm/reasonable grounds for concern?

- 14. Where does this incident fall on the scale between minor breaches of the code of behaviour/low-level poor practice through to serious, persistent unacceptable practices or abusive behaviours?
- 15. Who else in the organisation need to know about this (eg: CEO, sub group of the Board of Management) and what information should be shared?

Following the initial triaging, it may also be necessary to determine the level of risk associated with an incident and the continued involvement of the respondent in day to day activities. Depending on the seriousness of the incident, the statutory authorities may offer some guidance on what action to take. Additionally, the following questions may be useful in this regard:

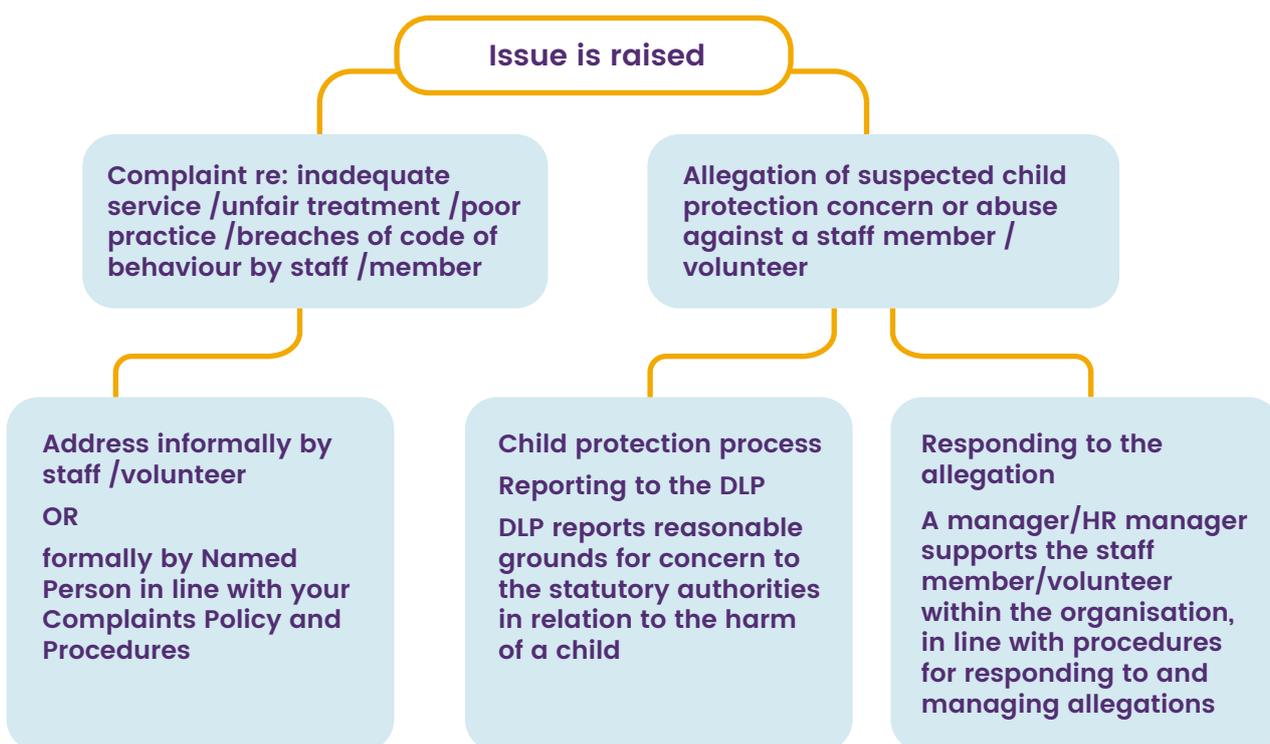
- 1. Was the incident a disproportionate or inappropriate response in the context of a challenging situation?
- 2. If the incident involved an inappropriate response to challenging behaviour, had the member of staff had training in how to respond to this?
- 3. Does the staff member/volunteer understand that their behaviour was

inappropriate and express a wish to behave differently in the future? For example, are they willing to undergo training?

- 4. Have similar/other allegations been made against the staff member/volunteer – is there a pattern developing?

Adapted from: Keeping Children Safe. Management of Child Safeguarding Allegations. Myers, J. & Edwards, E. (2016) [codeofgoodpractice.com/wp-content/uploads/2019/03/KCS-Management-of-Child-Safeguarding-Allegations.pdf](https://codeofgoodpractice.com/wp-content/uploads/2019/03/KCS-Management-of-Child-Safeguarding-Allegations.pdf)

There is a responsibility on organisations to create a culture of safety, openness, transparency, and accountability in which complaints and allegations are received and acted upon. Organisations are also responsible for ensuring that all stakeholders, internally and externally, are aware of the policies and procedures in relation to complaints and allegations. Although this responsibility may appear daunting, we hope the guidance in this resource provides you with useful information to navigate through this process. The diagram below provide an over view of the two processes involved.



# PART 01

## Managing Complaints

# Section 1: Overview of Complaints

## 1.1 What is a complaint?

A complaint can be in relation to any part of the service, a decision made about something that affects a complainant, being denied a service, a change in service provision, management of the service, a member of staff or volunteer, students etc.

Examples of complaints<sup>1</sup> might involve:

- > An alleged breach of the code of behaviour by a worker/volunteer (see *Appendix Three for Guidance on Responding to Breaches of the Code of Behaviour*)
- > A particular practice complaint
- > Perceived poor attitude of a worker/volunteer
- > A child/young person feeling unhappy about an incident or an event
- > A parent/guardian feeling unhappy about an incident or event involving their child
- > Dissatisfaction in relation to an aspect of the service being provided

## 1.2 Who can make a complaint

Anyone who is a user of the service (child or young person), a parent/guardian of a young person, a family member of a young person, students on placement, staff or volunteers, members of the wider community, personnel from agencies involved in partnership work etc.

## IMPORTANT:

Complaints outside the scope of this guidance include:

- > matters that are or have been the subject of legal proceedings
- > matters relating to the recruitment of an employee
- > matters that could prejudice an investigation by the statutory authorities (An Garda Síochána and/or Tusla)
- > matters that relate to child protection and welfare concerns
- > complaints not directly related to the operation of your service/project/club

## 1.3 Making complaints

### Named Person

Organisations should consider appointing a 'Named Person' who has overall responsibility for managing complaints. Ideally, this should be a senior person in the organisation who has in-depth knowledge of the various policies and procedures, as well as good communication skills.

Complaints can be made verbally or in writing.

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1. Tusla Child Safeguarding: A Guide for Policy, Procedure and Practice (2019): [www.tusla.ie/uploads/content/Tusla\\_-\\_Child\\_Safeguarding\\_-\\_A\\_Guide\\_for\\_Policy,\\_Procedure\\_and\\_Practice.pdf](http://www.tusla.ie/uploads/content/Tusla_-_Child_Safeguarding_-_A_Guide_for_Policy,_Procedure_and_Practice.pdf)

### A verbal complaint

Verbal complaints should be taken seriously and responded to in an open and courteous manner. A staff member or volunteer who receives the verbal complaint should seek to resolve the problem immediately, where possible. It is often possible, and preferable, to resolve the problem informally by simply speaking to the individual concerned. Many complaints can be addressed through clear communication, compromise and/or apology.

When a complaint cannot be handled informally, the staff member or volunteer should refer it to their Named Person.

If it remains unresolved, the complainant should be provided with the organisation's complaints procedure and the complaints record form to be completed (see Sample in Appendix One).

### A written complaint

All complaints that require management to be involved should be made in writing on the organisation's complaints record form. This record should include information on:

- > The name of the complainant and date and time complaint was received
- > The name of the person who received the complaint

- > The nature and details of the complaint
- > Date, time, location, those involved and other relevant details in relation to the complaint
- > What the complainant's preferred outcome may be

### Publicising the complaints procedure

Users of the service and workers/volunteers should be aware of how to access the complaints procedure. You should consider how you will raise awareness of your complaints procedure, e.g. leaflets, posters, website, induction training, etc.

*(Taken from Child Safeguarding: A Guide for Policy, Procedure and Practice Tusla 2019)*

## Section 2: Responding to a Complaint

### 2.1 Principles in handling a complaint

The Office of the Ombudsman for Children (OCO) has identified seven core principles of good practice for handling complaints<sup>2</sup> made by or on behalf of children

1. Openness and accessibility
2. Best interests of the child
3. Participation of children
4. Transparency and communications
5. Timeliness
6. Fairness
7. Monitoring and review

### 2.2 Guidance on responding to a complaint

#### Informal Process

The person making the complaint should be listened to and provided with an opportunity to make their complaint fully. Every effort should be made to resolve the complaint/s raised through listening and open discussion, ensuring that the complainant is given time and space to outline their complaint/s. This process may result in an explanation, clarification, apology and/or a commitment to a change in practice if relevant.

The nature and details of the complaint should be recorded by the staff member or volunteer along with the agreed outcome.

If the complaint cannot be handled informally, the formal process below should be followed.

#### Formal Process

When carrying out a formal process, this usually involves conducting an investigation. This requires requesting **further information** and details from those involved, including the complainant.

- > Terms of reference should be agreed for the investigation.
  - > The investigation should be completed within an agreed **timeframe**.
  - > All considerations should be dealt with in a **fair, open** and transparent manner.
  - > If the complaint involves potentially serious matters, advice should be sought from a **legal adviser**.
1. The complainant should be provided with the organisation's complaints record form and asked to complete it, providing all of the details necessary.
  2. The Named Person should acknowledge receipt of the complaint in writing as soon as possible (usually within 3–5 working days).
  3. The Named Person should investigate the matter by reviewing the information and seeking any additional details, if necessary. This would normally involve speaking to the respondent and any witnesses or other parties involved.
  4. The investigation should be conducted within an agreed amount of time (usually within 30 working days). If there is any delay, the complainant should be informed as to the reason for the delay.
  5. Clear and comprehensive records should be maintained throughout the process, outlining the details of how the complaint was followed up and resolved, the decisions reached, and the action taken. This information should be handled carefully and confidentially.

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2. The Office of the Ombudsman for Children: [www.oco.ie/app/uploads/2018/02/14433\\_OCO\\_child-centred-complaints\\_covers\\_WEB-1.pdf](http://www.oco.ie/app/uploads/2018/02/14433_OCO_child-centred-complaints_covers_WEB-1.pdf)

6. The complainant and the respondent/s should be informed of any **outcome verbally and in writing**.

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## 2.3 Guidance on conducting an investigation

An investigation may involve some of the following:

- > Informing the Board of Management that a formal complaint has been made and an investigation is taking place.
- > Informing the complainant of the process of the investigation and keeping them updated regarding the progress as appropriate.
- > Informing the respondent of the process of the investigation and keeping them updated regarding the progress as appropriate.
- > Seeking additional information from the complainant and the respondent and any other relevant person/s involved in the complaint raised.
- > Enquiring as to the preferred outcome from the process from the complainant.
- > Conducting interviews with all relevant individuals.
- > Recording all aspects of the process, including interviews, meetings etc.
- > Establishing grounds (or not) for the complaint.
- > Communicating the outcome of the process to the complainant, the respondent, and any other relevant parties.
- > Implementing any corrective actions identified to resolve the complaint and detailing any plan implemented as a result of the complaint, including any disciplinary action where relevant.
- > Reviewing and implementing any changes to risk assessments and/or policies and procedures to the risk management process in light of the complaint.

### Possible Outcomes from an Investigation

1. *No grounds for the complaint:* The person making the complaint will be notified and information detailing the appeals process will be provided.
2. *Grounds for the complaint upheld:* The person making the complaint will be notified and recommendations and actions will be outlined in writing.

While reporting with absolute certainty on a matter is desirable it will often not be possible. An investigator should arrange their evidence into:

- > Uncontested facts: Where the facts are not in dispute, they can simply be reported as factual.
- > Contested facts: Where the facts are contested or contradictory, they should determine what, on the balance of probabilities, took place (see below).

- 3. Unsubstantiated claims:** Where an investigator is unable to substantiate a complaint they should consider if further investigation is reasonable or report that they are unable to draw a conclusion.

### The balance of probabilities

An investigator should endeavour to reach conclusions about what did or did not happen, even when evidence is contested or contradictory. In these circumstances, an investigator will need to decide whether, on the balance of probabilities, they could justifiably prefer one version of the matter over another and explain why. Unlike criminal law, an investigator conducting an employment investigation does not have to find proof beyond all reasonable doubt that the matter took place. An investigator only needs to decide that on the balance of probabilities an incident is more likely to have occurred than not.

In responding to unsubstantiated claims, the organisation may need to implement further action, such as conducting a risk assessment, increasing the level of supervision, monitoring and reviewing the situation at regular intervals and/or inviting any relevant parties to come forward with new information.

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## 2.4 Disciplinary Procedures

If the outcome of the investigation warrants a disciplinary action, the organisation should follow their disciplinary procedures. The disciplinary action should reflect the seriousness of the outcome. The actions can include a verbal warning, a written warning, a poor performance review/evaluation, re-training, extension of the probationary period, working under increased supervision, suspension and, in serious cases, dismissal.

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## 2.5 Appeals

If the complainant remains dissatisfied with the outcome, they should be advised that they can appeal the decision and they should be provided with the name and contact details of the person who manages appeals. The appeal should be undertaken by a panel (comprising of 2 or 3 people) selected by the Board of Management. This panel must not include any person directly involved in

the complaint or connected to the parties involved. The panel should communicate its findings to the Board of Management.

A representative of the Board of Management should then communicate a detailed response, including any actions to be taken, to both the Named Person and the person who made the complaint, within a set timeframe (e.g. 30 working days). This timeframe may be different depending on the seriousness of the complaint, the urgency of the complaint, its complexity, and the availability of all those people who need to be involved.

### Grounds for an Appeal

- Conduct of the Committee

Examples include

- > How the respondent was treated?  
Badgering, refusal to listen or allow to speak, harassing, shouting.

- > Bias.
- > Lack of attention by the Named Person.
- Disproportionate Sanction

Examples include:

- > Sanction imposed does not reflect the level of infraction
- > Timescales not adhered to
- Unfair process

Examples include:

- > Witnesses called without adequate notice
- > Right to reply or cross-examine not granted
- > Siding with the complainant.

- Lack of Documentation

Examples include:

- > Discussing documentation not previously shared.
- > Inadequate time to share documents.
- > All documents not supplied.

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## 2.6 Anonymous Complaints

Anonymous complaints or complaints made under false names raise both practical problems and issues concerning fairness. However, anonymous complaints should not be ignored, and organisations should make every effort to address the complaints raised and try to resolve them appropriately.

There may be a good reason why the complaint is made on an anonymous basis, for example, if there was a concern by the complainant that if their identity were revealed it could lead to negative consequences on their health or well-being.

It may be the case that the complaint can be properly investigated either by talking to a third-party witness, or with evidence provided with the complaint, and where there is no need for further contact with the anonymous complainant.

Any complaint involving a minor should be investigated and handled in a confidential manner according to the Child Protection Policy, Anti-Bullying Policy, or Social Media Policy as necessary.

If the anonymous complaint relates to the general service delivery this should be referred to the director/management committee and remedial action should be implemented if appropriate.

A record of all complaints should be kept in the organisation.

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## 2.7 Recording of Complaints and Confidentiality

Records of the complaint should include any specific meetings held with the person making the complaint and minutes of any such meetings, details of the investigation carried out and the outcome of the investigation.

All information relating to complaints should be shared only on a need-to-know basis. Access to the complaint records should be clearly defined, and the privacy and confidentiality of those involved respected.

The record of the complaint will be kept for as long as the organisation deems necessary, as per their Data Protection Policy.

The record may include:

- The name of the complainant
- The nature and details of the complaint
- The date and time the complaint was received
- The manner in which the complaint was received

- The name of the person who received the complaint
- The level of risk to the child or children arising from the subject of the complaint
- The manner in which the complaint was dealt with, including:
  - > Any local resolution implemented
  - > Any specific meetings held with the person making the complaint and minutes of any such meetings
  - > Timelines for investigation of the complaint and notification of the outcome to the person making the complaint
- Details of the investigation carried out
- The outcome of the investigation
- Details of any corrective or preventive actions to resolve the complaint
- Information provided to the person making the complaint about the progress and the outcome of the complaint
- Whether the action taken to resolve the complaint was accepted
- Details of any plan implemented as a result of the complaint
- Details of any review of the risk management process in light of the complaint
- Details of any changes to practice or policy.

It should be clearly stated who has access to the Complaints records. Factors to consider when retaining records in relation to complaints:

- GDPR implications
- Health & Safety
- Legal – both civil and criminal implications

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## 2.8 Guidance on Developing a Complaints Policy

The following are suggested headings for a complaints policy; however, organisations may already have integrated their complaints policy into existing documentation such as the staff handbook.

### Suggested Headings for Complaints Policy

- > A Complaints Policy Statement (A statement outlining the organisation's stance on complaints)
- > What is a complaint?
- > Principles underpinning the policy (UNCRC, National Strategy on Youth Participation, OCO etc)
- > Matters not within the scope of the complaints policy
- > How to make a complaint
- > How a complaint will be managed
- > Stage One: Informal Process
- > Stage Two: Formal Process
- > Communication of the response/ outcome
- > Appeals
- > Recording and record keeping
- > Review Date of Policy

## Section 3: Follow-up and Lessons Learned

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### 3.1 Concluding the Process

Every effort should be made to reach a conclusion in all cases even if there is a lack of cooperation from those directly involved, it is difficult to reach a conclusion, or if the staff member who is subject to the complaint is no longer employed or the volunteer has withdrawn his/her services. This is important in terms of ensuring that the organisation is living up to its responsibilities to all of those engaged with the service.

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### 3.2 Feedback

Consideration should be given as to who needs feedback following the conclusion of any investigations and the nature of that feedback in accordance with the principles of data protection and confidentiality.

Written feedback should be provided to the complainant and to the respondent, clarifying the outcome and any implications for their employment/volunteering. This should be done within an agreed timeframe.

Consideration should be given as to whether feedback should be provided to the wider staff/volunteer team depending on the nature of the complaint and within the limits of confidentiality.

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### 3.3 Support

The support needs of those involved in the complaint should be considered, during and after the complaint has been processed. This includes the person making the complaint, the person/s who is the subject of the complaint and any other individual who may be involved in an investigation. The Named Person should not provide support directly to those involved to avoid any conflict of interest.

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### 3.4 Storage of Information

Records of the complaint and how it was handled, including the outcome, should be stored and retained securely. The complaints policy should outline how complaints records will be stored and who has access to these.

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### 3.5 Lessons Learned

At the end of the complaint procedure, the organisation should engage in a process of reflection in order to identify any lessons to be learned about the process and the actions taken. This learning could provide appropriate amendments to the organisation's policies and/or procedures and/or risk management procedures, arising from the process.

# PART 02

## Responding to Allegations of Child Abuse Against Staff and Volunteers

## Section 4: Overview of Managing Allegations

### 4.1 What is a safeguarding/child protection allegation?

A Safeguarding (and Child Protection) allegation is a situation where it is alleged that any person working for or volunteering in a youth organisation has:

- > Behaved in a way that has harmed a child/young person, may have harmed a child/young person, or might lead to a child being harmed.
- > Possibly committed or is planning to commit a criminal offence against a child or related to a child.

**In situations where there is an allegation of harm, “Harm” means, in relation to a child:**

- a. assault, ill-treatment or neglect of the child in a manner that seriously affects or is likely to seriously affect the child’s health, development or welfare, or
- b. sexual abuse of the child

*(The Children First Act 2015)*

#### **Reasonable Grounds for Concern**

- > 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/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)*

#### **An allegation:**

- > Can be made in relation to a current incident or in relation to something that occurred historically
- > May concern one, or more, children
- > May not directly identify a known child victim, for example, if a staff member or volunteer is accessing abusive images of children online or using the internet to groom children with the intent to harm in future

- > Can be about any type of abuse – physical, emotional, sexual or neglect
- > May concern a breach of the organisation’s Safeguarding Code of Conduct/Behaviour

**Under the Children First Act 2015, relevant services are required to have a specified procedure in relation to managing allegations against staff and volunteers.**

An allegation of abuse should be treated as credible by the organisation prior to investigation by the statutory authorities.

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## 4.2 Who can Make an Allegation?

Anyone can make an allegation against a volunteer or worker, including a child, young person, parent/guardian, volunteer, staff member, board member, member of the public etc.

*All* staff and volunteers working or volunteering with children and young people have a responsibility to speak out if they have concerns about the safety and welfare of a child or young person or about the actions or behaviour of an adult. **A culture of safety and speaking out is essential to ensure that children and young people are protected and if someone speaks out, they should be treated seriously** (See Appendix Two for Sample Display on Creating a Culture of Safety).

The Children First Act 2015 also places a legal obligation on mandated persons (professional youth workers and managers) to report child protection concerns at or above a defined threshold to Tusla. Mandated persons are advised to consult Chapter 3 of the Children First – National Guidance for the Protection and Welfare of Children, 2017.

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## 4.3 Retrospective Allegations

A retrospective allegation is when an adult discloses abuse that occurred (during their childhood) while they were attending your service, involving a staff member or volunteer (who may or may not still be involved with your service). If the organisation receives a disclosure from an adult that they were abused as a child, this information should

be reported to Tusla, as the alleged abuser may pose a current risk to children. The organisation may need to take steps to respond depending on whether the staff member/volunteer is still with them. Advice from the statutory authorities and legal advice should be sought in these circumstances.

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## 4.4 Whistle-blowing

Workers/volunteers should also be made aware of the appropriate authorities outside the organisation to whom they may report if they are inhibited, for any reason, in reporting an incident internally or where they are dissatisfied with the internal response. Information should be provided in the organisation's policies on the Protected Disclosures Act 2014.

It is very important that everyone in the organisation knows that if they raise a concern that is not validated or confirmed through Tusla's or An Garda Síochána's investigation, they have still been correct in their initial action. Responsible action should be encouraged, and whistle-blowers enabled to feel confident of support from their organisation.

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## 4.5 Anonymous Allegations

Anonymous allegations or allegations made under false names raise both practical problems and issues concerning fairness. However, anonymous allegations should not be ignored, and organisations should make every effort to address the allegations raised and try to resolve them appropriately.

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## 4.6 Erroneous allegations

Staff or volunteers working with children/young people may feel vulnerable to accusations of child abuse. This may be

due to concerns of erroneous or untrue allegations being made against them. This might be because of a misunderstanding of what has taken place or a genuine mistake. These concerns should be addressed in child protection awareness training and volunteers and staff should be assured that any allegation of abuse against a worker/volunteer will be dealt with sensitively and fairly, and in the strictest of confidence.

Support should be considered by the organisation for both the worker or volunteer who allegedly abused a child/young person and the worker or volunteer who reported the alleged abuse.

- > If it is known that the safeguarding allegation was deliberately invented or raised maliciously by an adult then this could be discussed with the Gardaí and advice sought.
- > If the person making the false allegation is a member of staff, consideration should be given as to whether disciplinary action is required.

**It should be noted that the percentage of unfounded or malicious reports is extremely low.**

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## 4.7 Unfounded or False Allegations

**An unfounded allegation<sup>3</sup> is one where Tusla** has not established, on the balance of probabilities, that child abuse has occurred.

**A false allegation<sup>4</sup> is one where**

“A person who states to an appropriate person that—

- c.** a child has been or is being assaulted, ill-treated, neglected or sexually abused, or
- d.** a child’s health, development or welfare has been or is being avoidably impaired or neglected,

knowing that statement to be false”.

**In the event that Tusla determines that an allegation is unfounded or false,** consideration should be given as to what further action is required by the organisation such as:

- > If the safeguarding allegation was made by a child, is there a need to consider if a referral to Tusla is required in order to determine if that child is in need of support or services or may have been abused by someone else. Advice can be sought from Tusla.

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3. Tusla Child Abuse Substantiation Procedure (CASP): A leaflet for Adults who are alleged to have Abused a Child: [www.tusla.ie/uploads/content/45406\\_TUSLA\\_-\\_Adult\\_PSSA\\_Leaflet\\_AW.pdf](http://www.tusla.ie/uploads/content/45406_TUSLA_-_Adult_PSSA_Leaflet_AW.pdf)

4. Protection for Persons Reporting Child Abuse Act 1998

## Section 5: Managing an allegation of abuse

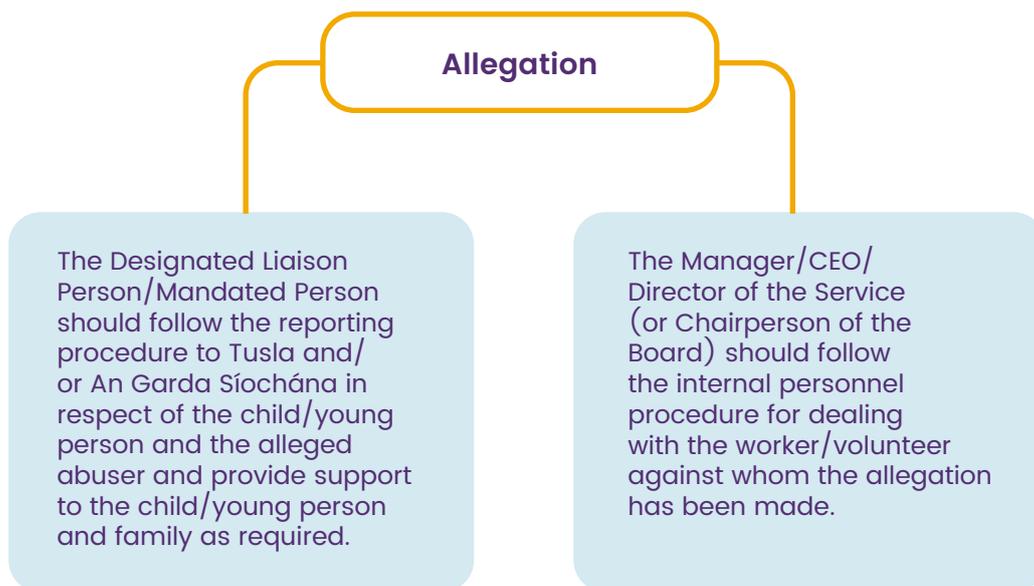
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### 5.1 Approach and principles to inform the management of an allegation of abuse

- > The **safety, welfare and protection of the child**/young person (and other children and young people in the service) should be of paramount consideration throughout the process.
  - > The procedures to be followed should be in adherence to **Children First**, National Guidance 2017 and the Children First Act 2015.
  - > The **roles and responsibilities** in relation to managing the allegation should be clearly defined in the organisational 'Child Protection Policy' and communicated internally.
  - > **Supports for the child/young person** should be considered and for the person who raised the concern/made the allegation (if they are a volunteer or staff member).
  - > **Confidentiality** should be maintained at all times while an allegation is being investigated or considered. The identity of individuals should not be disclosed, other than as required under the reporting procedures.
  - > Clear and comprehensive **records** should be maintained throughout the process, outlining the details of how the allegation was followed up and resolved, the decisions reached, and the action taken. This information should be handled carefully and with strict confidentiality.
  - > The procedures followed should be **open, transparent** and in line with the rules of **natural justice and any relevant employment law**.
  - > The staff member or volunteer should be given a **full opportunity to answer the allegation** and make representations on their own behalf (and have a person of their choice with them). This is not an investigation and should not in any way interfere with any statutory investigation.
  - > Employers have a duty of care to their employees. **Support for the staff member or volunteer** against whom the allegation is made should be considered throughout the process, for example through an Employee Assistance Programme (EAP), or equivalent. The support they require depends on the circumstances of the case and will have to be negotiated and agreed upon on a case-by-case basis. Guidance should be sought from the statutory authorities in this regard.
  - > **The timeframe** involved should not be overly extended but it is important to allow time to arrive at the right outcome rather than meeting set timescales. Delays should be minimised and those involved should be committed to completing the process.
  - > Every effort should be made to **reach a conclusion** in all cases even if the staff member or volunteer refuses to cooperate, it is difficult to reach a conclusion, or if the staff member is no longer employed or the volunteer has withdrawn his/her services. An **appeals procedure** should also be considered.
-

## 5.2 Roles and Responsibilities when responding to an allegation

If an allegation against a staff member or volunteer has been made, the organisation has a dual responsibility in respect of both the child/young person and the worker/volunteer. There are two separate procedures to be followed:



**Important:** It is recommended that the same person should not have responsibility for managing the child protection reporting procedure and employment/contractual issues of the individual against whom the allegation has been made.

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## 5.3 Steps in handling an allegation

1. The first priority is the **safety of the child/young person**; management must make sure no child or young person is exposed to unnecessary risk.
2. **Protective measures** should be taken as appropriate. Any protective measures need to be proportionate to the level of risk to the child. In all situations, the perceived level of risk needs to be considered and managed for all parties. A risk assessment can help to determine what protective measures are appropriate.

A range of protective actions which can be taken include:

**Reassignment or restricting** of duties so as not to come into contact with one or more children. This should be managed and supervised.

**Removal** from contact with young people, in situations where the level of risk may require the member of staff or volunteer not to be working with a specific child or all children until the assessment is complete.

**Suspension** – In some cases, the organisation will decide to suspend the employee who is the subject of the allegation or cease to use the services of a volunteer on a temporary basis. The act of suspension does not indicate a person's guilt, it is a neutral act. An individual must not be suspended automatically when there has been an allegation or without careful thought. Suspension should be considered in any case where:

- > There is reason to suspect a child is at risk of significant and the allegation warrants investigation by An Garda Síochána/Tusla.
- > The allegation is so serious that if substantiated might be grounds for dismissal.
- > There are concerns that the person about whom the allegations are made may put pressure on or interfere with potential witnesses.
- > The person by carrying out their normal duties may pose a risk to others and where this risk cannot be reasonably mitigated against through increased supervision or a temporary change of duties.

3. The agreed **reporting procedure** should always be followed by mandated persons and/or the DLP, as per the organisation's Child Protection Policy, in line with Children First legislation and guidance.

4. As soon as possible, and ensuring no immediate risks associated with same, the staff member or volunteer against whom the allegation has been made should be **informed about the allegation** unless directed to do otherwise by Tusla /Gardaí.

### Guidance on Informing the Individual about the allegation

The staff member concerned should be **treated fairly and honestly** and reassured that no conclusions in relation to the allegations of abuse will be formed until an assessment has been completed and they have had an opportunity to respond fully to any allegations made against them.

Once the person subject to the allegation or concern has been made aware of the allegation, they should be advised that they can contact **a support person** of their choice for example their union representative, a colleague, a family member etc. They should also be advised as to who will update them on the progress of the allegation.

Every effort should be made to maintain **confidentiality** while an allegation is being investigated or considered. Information should be restricted to those who need to know in order to protect children, facilitate enquiries, or manage any disciplinary processes.

Where the organisation must carry out an internal review (in the aftermath of a statutory investigation), a meeting should be arranged to advise the staff member or volunteer of this intention. The staff member or volunteer should be advised of their right to be accompanied at this meeting by their support person of choice. They should be given details of the allegation at least five working days prior to the meeting and afforded an opportunity to make an initial response if they so wish. They should be advised as to what happens next and told not to make contact with the complainant.

They should be advised of support and counselling services that are available to them, as per the organisation's resources. If the organisation does not have resources to provide counselling supports the person should be provided with information for free national support (e.g. Samaritans, text helplines etc.).

They should be kept informed of the progress and outcome and the implications for any disciplinary or related process and if suspended/placed on administrative leave, be kept up to date.

5. The Board of **Management should be informed** about the nature of the allegation and the process to be followed, without giving identifying information.
6. Advice should be sought from the statutory authorities in relation to informing parents/guardians about the allegation, and of any action planned while having regard to the rights to confidentiality of others, such as the person against whom

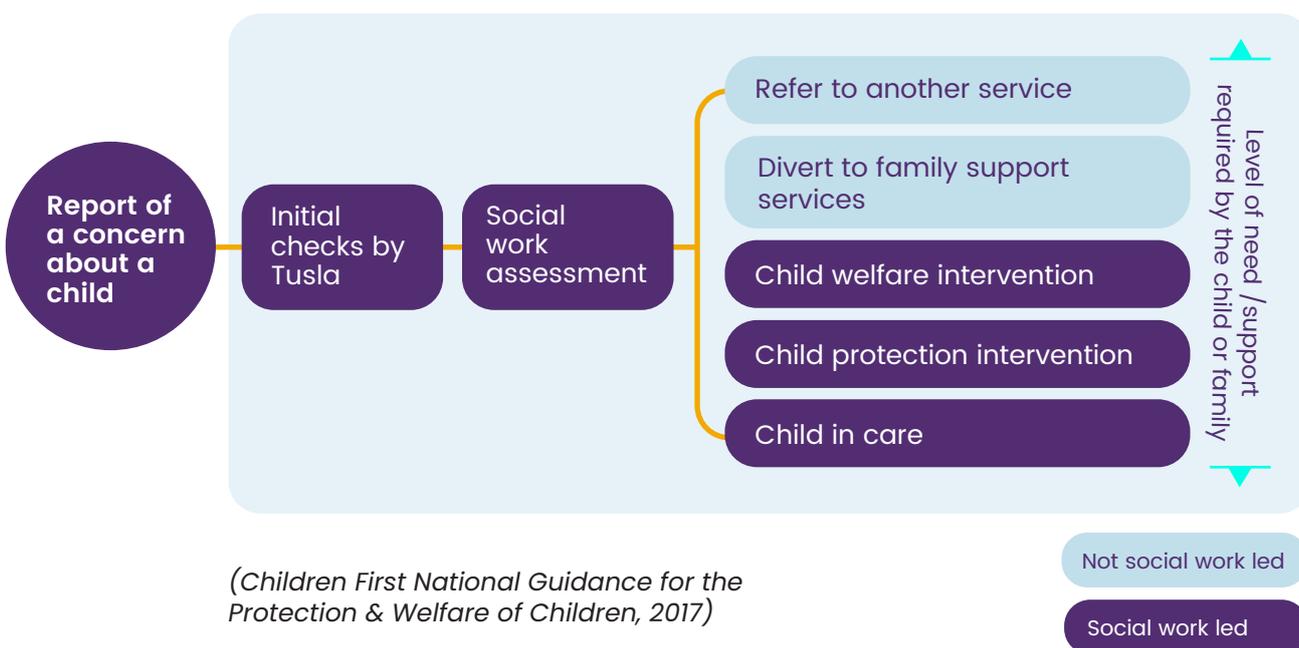
the allegation has been made. It should be clear to both the child and their parents /guardians who in the organisation is responsible for keeping them informed of the process. Organisations should assess the potential risk to relevant parties before informing parents and seek advice from the statutory authorities as necessary.

## 5.4 Reporting to the Statutory Authorities

Tusla has overall responsibility for the assessment and management of child protection concerns. Tusla uses an approach called Signs of Safety which is an assessment framework that assists everyone to jointly discuss and record the concerns, worries and strengths that exist within the family that has led to concerns about their child.

An Garda Síochána has responsibility for the investigation of alleged offences.

Consideration must also be given to responsibilities under the Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012, which are in addition to any reporting requirements under the Children First Act 2015 or Children First: National Guidance for the Protection and Welfare of Children.



### Possible outcomes from a Tusla investigation

In the aftermath of a Tusla investigation, there are a number of possible outcomes as follows:

- > **Substantiated:** there is sufficient identifiable evidence to prove the allegation.
- > **False:** there is sufficient evidence to disprove the allegation.
- > **Malicious:** there is clear evidence to prove that there has been a deliberate act to deceive, and the allegation is entirely false.
- > **Unfounded:** there is no evidence or proper basis that supports the allegation being made. It might also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively, they may not have been aware of all the circumstances.
- > **Unsubstantiated:** this is not the same as a false allegation. It means that there is insufficient evidence to prove the alleged behaviour occurred.

### Allegations that do not meet the threshold for social work assessment

- > If an allegation is screened by Tusla's social work department and it does not meet the threshold for the social work department to investigate, the allegation will be returned to the organisation.
- > The organisation should decide if the allegation requires an internal review in order to resolve it.

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### 5.5 Guidance on conducting an internal review

Organisations may conduct an internal review following any Tusla/An Garda Síochána investigation but they should take care to ensure any actions they undertake do not undermine or frustrate any assessment/investigation being conducted by Tusla or An Garda Síochána.

- > Terms of reference should be drawn up for the internal review
- > An internal review team/individual should be **appointed** by the Manager/CEO/Director/Board of Management.
- > The team/individual should have the necessary **knowledge and expertise** to conduct an internal review. They should not have any conflict of interest or loyalty and have time available/assigned to carry out the task.
- > **Strict confidentiality** should be maintained throughout the process.
- > The team/individual should be facilitated to **interview any person** whom they feel can assist with the internal review. Staff and volunteers should be required to cooperate fully with the internal review process and should be supported to do so.

- > **Records** should be kept of all decisions and outcomes, treated in the strictest confidence, and shared with the relevant parties as appropriate.
- > Staff and volunteers should be required to respect the **privacy** of the parties involved by refraining from discussing the matter with each other or external parties during the process.

It should be considered a serious issue to **intimidate or exert pressure** on any person who may be required to attend as a witness or to attempt to obstruct the internal review process in any way.

#### Terms of Reference

*The internal review should be guided by clearly defined terms of reference which are developed by Management and based solely on the details of allegation and any other matters relevant to the allegation.*

*These terms of reference should include and specify the following:*

- > *The internal review will be conducted in accordance with the organisational Child Protection Policy, with particular reference to the procedures for responding to allegations.*
- > *The timescale within which the internal review will be completed.*
- > *The scope of the internal review i.e. who will be part of the internal review and what will be included or excluded.*
- > *Those involved in the internal review will determine whether or not the allegation has been upheld, a report should be produced, and may make recommendations (other than disciplinary sanction) where appropriate.*

- *The staff member against whom the allegation is made will be advised of the right to representation and given copies of all relevant documentation prior to and during the internal review process, i.e. the allegation witness statements (if any). The team/individual will interview any witnesses and other relevant persons. Confidentiality will be maintained as far as practicable.*
- *Persons may be required to attend further meetings to respond to new evidence or provide clarification on any of the allegations raised.*
- *The team/individual will form preliminary conclusions based on the evidence gathered in the course of the internal review and invite any person adversely affected by these conclusions to provide additional information or challenge any aspect of the evidence.*
- *On completion of the internal review, the team will form its final conclusions based on the balance of probabilities and submit a written report of its findings and recommendations to senior management.*

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## 5.6 Guidance on recording and record keeping

Organisations should keep a clear and comprehensive record of any concern or allegation made against an individual, including details of how the allegations were followed up and resolved, details of the decisions reached, and any action taken.

The purpose of the record is to:

- > enable accurate information to be given in response to any future queries or requests for a reference.
- > prevent unnecessary re-investigation should the same allegation resurface again at a later date.
- > enable the organisation to review and improve policies, procedures and practices based on learning and feedback.

**IMPORTANT:** All records must be stored carefully and in the strictest of confidentiality, with consideration to the storage and archiving of sensitive information.

## Section 6: Follow up and Lessons Learned

### 6.1 Concluding the Process

Following completion of the handling of the allegation, a report should be completed which details clearly the relevant information, any actions taken and any recommendations. The line manager of the staff member or volunteer, CEO and Chairperson will need to be a party to any decision.

Options include:

- > Reintegration of the staff member or volunteer.
- > Performance management and/or re-training identified and actioned.
- > Disciplinary process implemented (up to and including dismissal).

If the staff member tenders their resignation, or a volunteer withdraws their service, this should not prevent an allegation from being followed up in accordance with the organisation's procedures. It is important that every effort is made to reach a conclusion in all cases of allegations in relation to the safety or welfare of children, including any in which the person concerned refuses to cooperate with the process. The individual involved should be made aware that if they leave and the internal review is incomplete it may be referred to in a reference.

### 6.2 Supports

The support needs of the person that was the subject of the safeguarding allegation should be considered, during and after the allegation has been processed. Supports could

include an Employee Assistance Program (EAP) or equivalent, or provision or access to counselling, as per the organisation's resources. Support may also be required for the person who made the allegation, and anyone involved with the internal review.

### 6.3 Feedback

Consideration should be given as to who needs feedback following the conclusion of any statutory investigations or internal reviews and the nature of that feedback in accordance with the principles of data protection and confidentiality. This might include feedback to the child, their parents/carers, and/or the person who raised the concern initially, and the line manager of the staff member or volunteer.

Written feedback should be provided to the person who has been the subject of the allegation, clarifying the outcome and any implications for their employment/volunteering. This should be done within an agreed timeframe.

### 6.4 Storage of Information

Records of all allegations and all communications, actions and processes should be retained securely on an individual's personnel file and should be held in a restricted section of the personnel file. All documentation should be stored and retained in line with the organisation's Data Protection Policy.

## 6.5 Impact on the organisation<sup>5</sup>

The process and aftermath of an allegation can have a huge impact on an organisation and the people involved. Management should be mindful of this and should take action to address this where possible. Confidentiality is a significant consideration in this regard.

Possible responses might include the following:

- > Thanking the people involved, including any witnesses, individually for their participation and reminding them that victimisation or retribution for their involvement is not tolerated.
  - > Addressing fears, spoken and unspoken, that witnesses may have about their involvement and how their evidence was used against either party. Explaining as much as possible, without breaking confidentiality. For example, telling them that the internal review has concluded, that findings of fact based on evidence from a number of sources have been reached and that the organisation will now take appropriate (confidential) disciplinary or other action that is required to address the relevant allegations.
  - > Offering a range of supports to relevant staff/volunteers to help them process and move on from the impact of the allegation.
- > Secrecy about any disciplinary outcome is justified for confidentiality reasons, but that vacuum of information may encourage staff/volunteers to talk amongst themselves or create an impression that “nothing happened” or it was “swept under the carpet”. If the organisation is going to take steps as a result of the allegation that will involve the team or the organisation, let them know and make sure the organisation follows through. This will build confidence in the organisation’s policies and procedures and demonstrate the organisation’s commitment to addressing the allegations.

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## 6.6 Lessons Learned

At the end of the process of managing an allegation and its conclusions, the organisation should engage in a process of reflection in order to identify any lessons to be learned about the procedure, the actions taken, and the support offered. This learning should feed into the organisation’s ongoing risk assessments of harm, review of the Child Safeguarding Statement and policy and procedural revisions.

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5. Managing the aftermath of a workplace investigation – Worklogic:  
[www.worklogic.com.au/post-investigation-support/managing-aftermath-workplace-investigation/](http://www.worklogic.com.au/post-investigation-support/managing-aftermath-workplace-investigation/)

# Appendix One

## Complaints Record Form

Date of complaint: \_\_\_\_\_

Complaint made by: \_\_\_\_\_

Complaint received by: \_\_\_\_\_

Complaint made via:  Telephone  Letter (attached)  
 In-person  Other

## Complainant Details

Name of complainant(s): \_\_\_\_\_

Address of complainant/s: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Contact phone number of complainant/s: \_\_\_\_\_

If a complaint is being made on behalf of someone else:

- > Who is the complaint on behalf of:
- > Who is making the complaint:
- > What is their relationship:
- > Does the representative have the complainant's written consent to represent their interests?

Yes  No

Details of the complaint (If insufficient space, attach extra pages)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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The complainant's desired outcome would be:

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Signed:

Complainant: \_\_\_\_\_ Date: \_\_\_\_\_

Manager/Named Person: \_\_\_\_\_ Date: \_\_\_\_\_

How is the complaint being dealt with? (To be completed by the Named Person)

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Actions and outcomes (to be reported by the Named Person)

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Adapted from Crosscare's Complaints Policy

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# Creating a Culture of Safety

## For the Attention of All Staff and Volunteers

### Please be mindful of your boundaries by ensuring:

- > You use positive language around children, never using crude or sexual words
- > Your physical interactions with children are safe and welcome
- > You refrain from commenting on a child's appearance, either positively or negatively
- > Your activity online, particularly on social media, and how you engage with young people is appropriate

### Please remember to:

- > Support your colleagues when dealing with challenging behaviour
- > Consider how the behaviour of the leaders impacts on children and young people
- > Challenge unsafe or poor behaviour by other leaders
- > Take your time to consider each situation and don't jump to conclusions
- > Seek advice if you are not sure what to do
- > Report to your DLP any concerns in relation to child safeguarding and protection

## Appendix Three

### Guidance on Responding to Breaches of the Code of Behaviour by an Adult Leader (Staff or Volunteer)

(adapted from the National Board for Safeguarding Children in the Catholic Church in Ireland Standard One)

Creating a culture of openness and communication is hugely important to provide a safe environment for all children and young people attending your service. This is done by ensuring effective induction and training are provided to all new staff and volunteers and which is refreshed regularly.

All adult leaders should be supported in their roles and have clear expectations and an understanding of boundaries in relation to their roles and responsibilities. A Code of Behaviour can be very useful when providing information on appropriate interactions with children and young people.

However, breaches (both accidental and wilful) of the organisation's Code of Behaviour can occur and efforts should be made to resolve any breaches. Breaches of the code of behaviour should be reported to the Senior Volunteer/Group Leader/Line Manager who will follow the organisation's procedures in this regard.

Minor breaches of the Code of Behaviour can often be resolved through:

- > Discussion with the adult on the breach of the Code of Behaviour
- > Revisiting and reviewing the Code of Behaviour
- > An apology from the leader for their behaviour

Sometimes the breach of the Code of Behaviour will require:

- > Retraining for the leader/s in child safeguarding and protection
- > More frequent support and supervision for the adult leader
- > Monitoring of the leader put in place

For serious breaches of the Code of Behaviour:

- > Suspension which may be time-limited
- > Expulsion from the youth club and organisation
- > Formal reporting to the statutory authorities

For more information on producing a Code of Behaviour – please see NYCI's 'Working Safely in a Youth Club':

[www.youth.ie/wp-content/uploads/2018/11/NYCI-Working-Safely-in-a-Youth-Club.pdf](http://www.youth.ie/wp-content/uploads/2018/11/NYCI-Working-Safely-in-a-Youth-Club.pdf)

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