

Mandated Assisting Protocol for Tusla Staff

Children
First

TUSLA

An Ghníomhaireacht um
Leanaí agus an Teaghlach
Child and Family Agency





Guiding principles

1. Tusla is fully committed to promoting the safety and welfare of children, believing that the welfare and safety of children are greatly improved when all professionals involved in their lives work together in the child's best interests.
2. Good-quality decision-making for children is significantly enhanced by effective cooperation and information sharing between organisations. The safety and welfare of a child is the paramount concern for Tusla.
3. Significant levels of interdisciplinary and interagency working occur on a daily basis between the different professional groups and agencies. This alliance of cooperation and collaboration will be the approach in which Tusla will continue to invest.

Background

The Children First Act 2015 imposes a legal obligation on certain categories of professionals called 'mandated persons' to report child protection concerns above a defined threshold to Tusla. Mandated persons are people who have ongoing contact with children and/or families and who, because of their qualifications, training and experience, are in a key position to protect children from harm. Mandated persons can also be mandated to assist Tusla in their assessment of child protection and welfare concerns about children who have been the subject of a mandated report.

Tusla's work is greatly enhanced by cooperation and information sharing between professionals in order to determine the best outcomes for children and their families. In the vast majority of cases, this cooperation is forthcoming and mandated assistance will not need to be sought. However, **in essential circumstances, where it is determined to be in the best interests of the child**, it may be necessary for a formal request for mandated assistance to be made.

Legal remit

The Children First Act 2015 allows Tusla to formally request mandated assistance. Mandated assistance is the provision of:

- ⇒ Verbal or written information or reports
- ⇒ Attendance at any meeting arranged by Tusla in connection with an assessment of a child, e.g. Strategy Meeting, Child Protection Conference
- ⇒ The production to Tusla of any document or thing.

Assistance will be relevant where a mandated person's existing knowledge of a child and/or its family are essential to the assessment or where a mandated person's area of professional expertise is required to ensure the child's best interests are met.

It may be that a verbal telephone report is sufficient or that the mandated person is asked for copies of existing reports, records or correspondence. The Social Worker may also request that a mandated person contributes their own professional report to the overall social work assessment.

There are **five conditions** that need to be met before requesting mandated assistance:

1. The legal threshold for a mandated report should have been reached, i.e. the child has suffered, is likely to or is suffering harm.
2. The request is necessary and proportionate in all the circumstances of the case.
3. The mandated person is reasonably believed to be in a position to assist having an identified and specific contribution to make to the assessment, as it may be reasonably required.
4. That not making the request for assistance may be detrimental to the best interests of the child.
5. The mandated person is not already voluntarily, as part of their normal duties, participating and assisting with the assessment.

Formal requests for assistance should only be progressed following approval by your Team Leader.

Process for formally requesting assistance

Once it is established that the criteria for making an assistance request has been met, the Social Worker must:

- 1.** Clearly identify the nature of the request for assistance, i.e. verbal information via a telephone call, attendance at a meeting, preparation of a report, provision of existing documentation.
- 2.** Specify the contribution that the mandated person who is subject to the assistance request can make to the quality of the assessment.
- 3.** Ensure that the assistance request made of the mandated person is proportionate to the overall circumstances of the case.
- 4.** Obtain Social Work Team Leader approval for the assistance request.
- 5.** Set out in writing to the mandated person that a formal request for assistance is being made of them under the provisions of the Children First Act 2015, providing:
 - (a)** the necessary details of the case
 - (b)** the reason for the assistance request
 - (c)** the specific nature of the assistance request
 - (d)** a specified but reasonable timeframe for response.
- 6.** Copy the assistance request to the line manager of the mandated person if known and if appropriate.
- 7.** Ensure that the child's file contains the case record detailing the reasoning and decision-making process in respect of the assistance request together with a copy of the assistance request letter.
- 8.** Outline to the mandated person a timeframe for their response to the assistance request.

Process for dealing with a refusal to assist or a failure to engage

It will be important, where a mandated person is refusing or fails to respond to an assistance request, for the Social Worker to provide an opportunity to the mandated person to clarify their reasoning and to listen to their position before any decision is taken to challenge a refusal/failure of an assistance request. The Social Worker should update their Team Leader on the matter at that stage. Moving to challenge a mandated person who has either refused to assist or failed to engage should be seen as a serious escalation, and only commenced after careful consideration of all the details relating to their position.

If the matter is to be escalated and progressed, the following steps are to be taken:

1. If mandated assistance is not forthcoming, and if there is any rationale for same from the mandated person, then you should inform your Team Leader of what you requested and the details of the response given to date. Any correspondence (verbal and/or in written format) should be reviewed by the Team Leader.
2. Your Team Leader will inform the Principal Social Worker of all relevant details pertinent to the request and a file review should take place. The Principal Social Worker will ultimately decide whether to proceed or not. If the mandated assistance request is still required, the Principal Social Worker will inform the Area Manager. The Area Manager will send a second Mandated Assisting Request Form and ensure a copy is placed on the child's file.

In reviewing the failure of a mandated person to respond to an assistance request, the Area Manager should consider the extent to which the child's circumstances have been adversely affected. The Area Manager will need to ensure that the mandated person's employer is made aware in writing, copied to the mandated person, of the impact of the refusal to assist on the child and inform them that correspondence on the matter will be kept on the child's case record.

The Area Manager should also inform Tusla Legal Services of the refusal to assist, or failure to engage, seeking clarification as to whether further action should be taken against the mandated person as a possible fitness to practice matter.

Further information on mandated assisting can be found in *Children First: National Guidance* and the Children First Act 2015.

Mandated Assisting Request Form



Dear _____

I am formally writing to you under section 16 of the Children First Act 2015 to request that you, as a mandated person, assist Tusla – Child and Family Agency in respect of the assessment of the following child, who has been the subject of a mandated report under section 14 of that Act.

1. Details of child

Name _____

Address _____

Date of birth _____ **School** _____

Assessment of harm

Tusla – the Child and Family Agency is currently assessing whether the aforementioned child has been or is being harmed, or is at risk of harm. Harm in this context is defined in the Act as sexual abuse of the child, or assault, ill treatment or neglect of the child in a manner that seriously affects, or is likely to affect, the child’s health, development or welfare.

The Child and Family Agency requests your assistance, as a mandated person, under the Children First Act 2015, as we reasonably believe you may be in a position to assist by providing such information and assistance to us that we reasonably require and is necessary and proportionate in all the circumstances of this case.

2. Agency’s reason for the mandated assistance request

Please detail the contribution the mandated person can make to the assessment of this child.

3. Specific nature of request

The Child and Family Agency, under the Children First Act 2015, may request such assistance as it may reasonably require, and such assistance includes:

- ⇒ The provision of verbal or written information or reports
- ⇒ Attendance at any meeting arranged by the Agency in connection with its assessment
- ⇒ The production to the Agency of any document or thing

The Act requires that the request must be, in the opinion of the Agency, necessary and proportionate in all the circumstances of the case.

You are requested to provide the following assistance:

Please detail the assistance requested, together with the rationale for why the request is necessary and proportionate in all the circumstances of the case, as set out above.

Under section 16(2) of the Act, you are required to comply with this request for assistance as soon as is practicable. The due date by which a response to this request should be returned is ___/___/____. *[Date to be specified by the Social Worker]*

It should be noted that mandated person assistance requests are made under section 16 of the Children First Act 2015 and that there is no provision in the legislation for any payment of fees to mandated persons where such assistance requests are made of them.

4. Details of Social Worker making this request:

Name _____

Position held _____

Contact details Phone: _____

Email: _____

Date _____

Yours sincerely,

Social Worker

Social Work Team Leader

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