

# SAFEGUARDING POLICY

Ref no: OCDC4

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| <b>Policy Title</b> | Safeguarding, OCDC4              |
| <b>Version</b>      | Final V 2.0                      |
| <b>Owner</b>        | Deputy Director, Care Operations |
| <b>Approved by</b>  | Board of Management              |
| <b>Date</b>         | 18/10/2018                       |
| <b>For Review</b>   | 31 March 2019                    |

## **1. Purpose of Policy**

The care, welfare and best interests of young people in Oberstown is of paramount importance. The purpose of this policy is to outline the core principles that staff must adhere to in their care of young people at Oberstown, and more specifically when they become aware or concerned that a young person's mental or physical well-being is at risk or being negatively impacted.

## **2. Policy statement**

In Oberstown, there is a responsibility on everyone to ensure that the organisation, its staff and operations do not harm young people in any way, including exposing young people to the risk of harm and abuse. Staff must understand their duty of care to young people, recognise that all young people have the right to protection from all forms of harm and staff must carry out their duties in accordance with relevant legislation and standards. Oberstown also recognises that the input of external agencies supports safeguarding of young people. In Oberstown:

- All staff have a responsibility to safeguard young people and to report any concerns they may have for the protection or welfare of a child/young person.
- A designated person (Designated Liaison Person (DLP)) will act as the focal point in the organisation to receive and manage any child welfare and protection concerns.
- Training will be provided so that all staff – including mandated staff<sup>1</sup> understand their specific responsibilities under the *Children First Act, 2015*.
- Confidential and accurate records of all child welfare and protection concerns must be maintained and stored securely.
- Staff must be cognizant of the importance of listening to the 'voice of the child' and take adequate steps to hear young people's views in matters that affect them.

## **3. Scope of Policy**

This policy applies to all staff in Oberstown including members of the Board of Management, members of visiting committees, independent advocates, staff from other agencies, students on placement and visitors. This policy should be read in conjunction with the Oberstown child welfare and protection reporting procedures, and the revised *Children First: National Guidance for the Protection and Welfare of Children*.<sup>2</sup> It is the responsibility of staff to ensure they are following the most recent version of this policy and that they understand all elements of it.

## **4. Legal framework**

It is the principal aim of Oberstown Children Detention Campus under s 158 of the Children Act 2001 to provide appropriate educational and training programmes for children referred to the Campus by a court and to promote their reintegration into society as persons who are capable of making a positive and productive contribution to society. This must be secured by having regard to young people's health, safety, welfare, interests; providing them with proper care, guidance and supervision; preserving and developing young people's

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<sup>1</sup> The Act places legal responsibilities on certain classes of professionals as Mandated Persons. The Children First Act 2015, Schedule 2, provides a full list of people who are classified as mandated persons. <http://www.irishstatutebook.ie/eli/2015/act/36/schedule/2/enacted/en/html>. See definitions also.

<sup>2</sup>Office of the Minister for Children and Youth Affairs, *Children First: National Guidelines for the Protection and Welfare of Children*, available at: [https://www.dcy.gov.ie/documents/child\\_welfare\\_protection/Children\\_First\\_July\\_2010.pdf](https://www.dcy.gov.ie/documents/child_welfare_protection/Children_First_July_2010.pdf).

relationships with their families; exercising proper moral and disciplinary influences on young people and recognising their personal, cultural and linguistic identity.

According to s 180 of the Act, young people in Oberstown are in the lawful custody of the Director who is 'to do what is reasonable...in all the circumstances .... for the purpose of safeguarding or promoting the child's... health, development or welfare'.

These obligations are fulfilled through the implementation by staff of Oberstown's policies and procedures.

The *Child Care Act, 1991* is the primary legislation regulating the protection and welfare of children in Ireland. It establishes the principle that the welfare of the child is paramount.<sup>3</sup>

The *Children First Act, 2015* places specific obligations on organisations that provide services to children and young people. These include to: keep children safe from harm while they are using the service; carry out a risk assessment to identify whether a child or young person could be harmed while availing of the service; develop a child safeguarding statement that outlines the policies and procedures that are in place to manage identified risks.<sup>4</sup>

Under the Act, certain professionals, known as mandated persons,<sup>5</sup> have a statutory obligation to report concerns which reach or exceed a legally defined threshold (see section 14 of the Act) and where requested, to cooperate with Tusla in the assessment of mandated reports.

The legislation is part of a broader framework of child protection legislation which includes the *National Vetting Bureau (Children and Vulnerable Persons) Act<sup>6</sup>, 2012* and the *Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act, 2012.<sup>7</sup>*

Under 176 of the *Criminal Justice Act, 2006* 'reckless endangerment' of a child is a criminal offence. This means that anyone who has authority or control over a child and who intentionally or recklessly endangers a child by either (a) causing or permitting any child to be placed or left in a situation which creates a substantial risk to the child of being a victim of serious harm or sexual abuse, or (b) failing to take reasonable steps to protect a child from such a risk while knowing that the child is in such a situation is guilty of an offence.

Additionally, the *Protection for Persons Reporting Child Abuse Act, 1998* ensures that there are no barriers for persons wishing to report a concern about child abuse or welfare to Tusla or An Garda Síochána.

#### 4.1 Human rights standards

The United Nations Convention on the Rights of the Child (UNCRC), to which Ireland is a party, sets out the rights to which all children, including children in detention, are entitled. The Convention requires that all children are entitled to enjoy their rights without discrimination, they must have their best interests taken into account in all matters concerning children and have their views taken into account in all matters affecting them in line with their age and maturity. Under Article 40 of the Convention, every young person in conflict with the law has the right to be treated in a manner consistent with the promotion of their sense of dignity and worth, which reinforces the respect for the human rights and fundamental freedoms of others and which takes into account the young person's age and

<sup>3</sup> s 24, *Child Care Act, 1991*.

<sup>4</sup>Part 2 *Children First Act 2015*.

<http://www.irishstatutebook.ie/eli/2015/act/36/enacted/en/pdf>

<sup>5</sup> *Schedule 2 of the Children First Act 2015* sets out who mandated persons are.

<sup>6</sup> *National Vetting Bureau (Children and Vulnerable Persons) Act*

<sup>7</sup> *Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act, 2012.<sup>7</sup>*

the desirability of promoting reintegration and assuming a constructive role in society. Article 19 requires states to take all measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

Regard should also be had to the UN Rules for the Protection of Juveniles Deprived of their Liberty (1990)<sup>8</sup> and the European Guidelines on Child-friendly Justice (2010).<sup>9</sup>

Under the European Convention on Human Rights Act 2003, Oberstown is an 'organ of the state' required to act in a manner consistent with obligations under the European Convention on Human Rights.<sup>10</sup> Particular notice should be taken of the positive duty under Article 3 of the ECHR to protect children from treatment that is inhuman and degrading. Regard should also be had to the European Convention for the Prevention of Torture and inhuman and degrading treatment and punishment (CPT).

## 5. Definitions

Safeguarding is a term used to describe the various issues associated with the prevention of deliberate harm or abuse to a child.

Safeguarding can be defined as the process of protecting children and young people from abuse or neglect, preventing impairment of their health and ensuring that they grow up in circumstances consistent with the provision of safe and effective care that enables them to have optimum life chances and enter adulthood successfully.<sup>11</sup>

Mandated persons are people who have contact with children and/or families who, by virtue of their qualifications, training and experience, are in a key position to help protect children from harm. The *Children First Act 2015* places a legal obligation on mandated persons to report concerns.

## 6. Related Documentation

Documents that should be considered in conjunction with this policy are:

- United Nations Convention on the Rights of the Child.<sup>12</sup>
- The Oberstown safeguarding statement.
- Schedule 2 of the *Children First Act, 2015*.<sup>13</sup>
- Guidelines for good practice in Children Detention Schools.<sup>14</sup>
- Our Duty to Care.<sup>15</sup>
- Oberstown employee handbook (recruitment section).
- DCYA, Commission to Inquire into Child Abuse, 2009.<sup>16</sup>
- Article 42A of the Irish Constitution.<sup>17</sup>

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<sup>8</sup> Available at

[https://www.unodc.org/pdf/criminal\\_justice/United\\_Nations\\_Rules\\_for\\_the\\_Protection\\_of\\_Juveniles\\_Deprived\\_of\\_their\\_Liberty](https://www.unodc.org/pdf/criminal_justice/United_Nations_Rules_for_the_Protection_of_Juveniles_Deprived_of_their_Liberty).

<sup>9</sup> <http://www.coe.int/en/web/children/child-friendly-justice>

<sup>10</sup> European Convention on Human Rights. Available at: [http://www.echr.coe.int/Documents/Convention\\_ENG.pdf](http://www.echr.coe.int/Documents/Convention_ENG.pdf).  
*European Convention on Human Rights Acts, 2003*. Available at:

<http://www.irishstatutebook.ie/eli/2003/act/20/enacted/en/print.html>

<sup>11</sup> Further information is provided on this definition ([www.dcsf.gov.uk/everychildmatters](http://www.dcsf.gov.uk/everychildmatters)) in 'Safeguarding Children: Background to Policy'.

<sup>12</sup> UN Convention on the Rights of the Child (CRC). Available at:  
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>.

<sup>13</sup> The Children First Act 2015, Schedule 2, provides a full list of people who are classified as mandated persons.  
<http://www.irishstatutebook.ie/eli/2015/act/36/schedule/2/enacted/en/html>

<sup>14</sup> Irish Youth Justice Service, Guidelines for good practice in Children Detention Schools, 2010.

<sup>15</sup> Department of Health and Children, Our Duty to Care, 2002.

<sup>16</sup> DCYA, Commission to Inquire into Child Abuse, 2009

<sup>17</sup> Available at: <http://www.irishstatutebook.ie/eli/cons/en/html>.