

DRAFT

HEADS AND
GENERAL SCHEME

CHILDREN FIRST BILL 2012

General Scheme of Children First Bill 2012

Background

Children First: the National Guidelines for the Protection and Welfare of Children, was first published by the Office of the Minister for Children in 1999. It was designed to assist in identifying and reporting child abuse and neglect. The *Guidelines* highlighted the roles and responsibilities of the HSE and An Garda Síochána as the two agencies with statutory responsibilities for child protection. The *Guidelines* assisted organisations in ensuring that children under their care were safe, that staff or volunteers could identify possible abuse within the organisation or elsewhere and that the appropriate structure for reporting to the relevant statutory bodies was in place. *Children First* has operated on the basis of voluntary compliance since it was first published.

Significant resources were put in place to support the implementation of *Children First*. In the case of the HSE and An Garda Síochána, *Children First* formed an integral part of their existing operations and practices. The HSE put in place a network of personnel to provide training, information and advice on the implementation of *Children First*.

In 2008 the Office of the Minister for Children and Youth Affairs published the *National Review of Compliance with Children First*. The *Review* found, in general, that difficulties on the implementation of the *Guidelines* were arising as a result of local variation and infrastructural issues, rather than from fundamental difficulties with the *Guidelines* themselves. The *Review* also found that in some cases State organisations did not uniformly apply the *Guidelines*.

The revised *Children First: National Guidance for the Protection and Welfare of Children*, was published in July 2011. It provides greater clarity and guidance for individuals and organisations in identifying and responding appropriately to child abuse and neglect. The scope of *Children First* extends beyond the reporting of suspected abuse and neglect. It emphasises the importance of multi-disciplinary, inter-agency working in the management of reports of alleged abuse. Key to this is the sharing of information between agencies and disciplines in the best interests of children and full co-operation to ensure better outcomes.

The main objectives of the revised *Children First: National Guidance for the Protection and Welfare of Children* are to establish a firm foundation from which practitioners can deliver a uniform and consistent implementation of the national *Guidance* throughout the State and to ensure that it becomes an integral part of the work plans and structures of any organisation providing services to, or in regular direct contact with, children.

The revised *Children First* reflects significant changes since 1999 to the service delivery system, and the policy framework. In particular, it takes account of the new HSE structure in the area of children and family services and of issues raised in child protection reports and reviews.

To ensure the effective implementation of an improved child protection system the Government is committed to introducing legislation to underpin the *Children First: National Guidance for the Protection and Welfare of Children*.

The following sets out the guiding principles underpinning the Heads of Bill:

1. *Children First: National Guidance for the Protection and Welfare of Children* to continue to operate in conjunction with this Bill (Head 5 refers)

1.1 The overarching policy objectives of *Children First: National Guidance for the Protection and Welfare of Children* and the proposed Children First Bill are the raising of awareness of child abuse, the recognition and reporting of child abuse, and the management of child safety concerns.

1.2 In essence, it is intended to ensure that obligations that arise under *Children First: National Guidance for the Protection and Welfare of Children* will operate together with the obligations under the proposed legislation, i.e. that following enactment of the Bill, the principles and guidelines set out in *Children First* will continue to be implemented and that in the operation of the Children First Bill, due regard is to be given to *Children First: National Guidance for the Protection and Welfare of Children*.

1.3 As a means of further emphasising societal responsibility to report child welfare and protection concerns to the Health Service Executive and /or An Garda Síochána, the policy intent is that the Bill will make it clear that nothing in the legislation shall preclude any person from complying with *Children First: National Guidance for the Protection and Welfare of Children*.

1.4 A further principle which has been included is that the provisions of the Bill are in addition to and are not in substitution of any other legal obligations a person has to disclose information to An Garda Síochána.

2. Organisations coming within the scope of the Bill (Heads 6 to 10 refer)

2.1 An organisation whose employees or volunteers have access to children, or work directly with children, and where a child can attend without a parent or guardian will come under the proposed Children First legislation. These are organisations ranging from professional well-established organisations such as educational institutions, and national sporting organisations to the more ad hoc community groups that arrange local sporting or leisure activities for children. These organisations include schools, pre-schools, health and social care facilities delivering services to children and An Garda Síochána, to faith based organisations, sports and youth clubs and arts and leisure organisations. Such organisations will include those with a residential element for children and transport services provided specifically for children e.g. the school bus service.

2.2 Some organisations providing services to children are not intended to come under the proposed legislation. The principle of the parent providing the best

protection for his/her child and in so doing supervising the service his/her child receives, underpins these exclusions.

2.3 Excluded services include those provided to a child where the child's parent directly employs the person providing the service or persons employed in the child's own home, or those services with general public access including shops, theatres, cinemas, food outlets, public transport, fairgrounds, amusement parks, public park, markets, community festivals, and such like services / activities.

2.4 Organisations employing children, unless they are specifically included in the defined cohort of organisations as described above, are also excluded. For example, a restaurant employing a 17 year old child is not to be brought under the legislation by virtue of that child being employed in that restaurant.

2.5 The underlying purpose of the legislation is to ensure that children are protected while present at, or availing of the services of, an organisation falling within its scope. Organisations will be required to operate in accordance with the Health Service Executive's best practice guidance for organisations, referred to as the *Safeguarding Guidance for Organisations*.

2.6 Under the legislation an organisation is to have a statutory duty to develop and implement a child protection and reporting protocol (in accordance with the *Safeguarding Guidance for Organisations*) referred to as the *Keeping Children Safe Plan*, to be approved at Board or equivalent level.

2.7 In the vast majority of cases, children who suffer abuse and neglect do so at the hands of their parents, extended family members, neighbours and family friends. It is intended that persons working in organisations which come under the proposed legislation are alert to the evident signs of neglect and abuse and that effective internal systems will be in place to ensure that concerns and allegations of neglect, sexual abuse and physical abuse are reported by the responsible person (Designated Officer – See paragraphs 2.12 to 2.24) to the Health Service Executive. *The Safeguarding Guidance for Organisations* and the *Keeping Children Safe Plan* are policy documents aimed at equipping those persons working with children to implement the proposed legislation. (A further document *Guidance for Reporting of Abuse* is dealt with in paragraph 5.)

Appointment of Designated Officer (Head 9(1) refers)

2.8 An organisation is to appoint its most senior manager as the Designated Officer, or if not formally appointed, the most senior manager employed by the organisation is assumed to be the Designated Officer. The appointment is to be made in writing. It may be that the most senior person is to appoint himself / herself.

2.9 The reasoning behind the appointment of a Designated Officer is to ensure that there is a single and clearly identifiable point of authority and responsibility relating to child safeguarding within the organisation; and to ensure the proper implementation of the proposed legislation.

2.10 The legislation is to provide that the role of the Designated Officer can be delegated by the Designated Officer to, and performed by, one or more senior managers who holds a supervisory post in relation to staff who work directly with children. The intention is, however, that the Designated Officer remains the person responsible for ensuring that cases of child abuse or neglect arising are reported and for compliance with the legislation generally. The policy intent in allowing for the delegation of the performance of the Designated Officer's day to day role is that there may be a person or persons working in the organisation more suitable to carry out the day to day functions of the Designated Officer.

2.11 The intention is to ensure that the Designated Officer is in a position to drive the implementation of the proposed Children First Bill and ensure that the organisation complies with the legislation. The policy is to preclude an owner or employer of an organisation, who does not work in that organisation, from being appointed as Designated Officer. This may include the registered owner of a pre-school or other children's service who is not involved in its day to day running. In other words, a Designated Officer must work in the organisation.

Child Protection Role of Designated Officer (Head 9(2) and (3) refers)

2.12 A Designated Officer is to ensure that an organisation carries out its responsibilities under the proposed legislation. The Designated Officer will be required to put in place the systems to provide assurance that the legislation is being implemented satisfactorily, including that all employees who have access to children have undergone Garda vetting; that HR practices ensure that persons employed to work with children are suitable for that role; the development of and the implementation of the *Keeping Children Safe Plan*; and that support is provided to employees in relation to their obligations under the proposed legislation.

2.13 Where any person working in an organisation has, in the course of their employment, access to children, or works directly with a child, the organisation will be required to hold records of that person's contact name and address, a description of their role, confirmation that they have been vetted, and any other relevant information, such as training or qualifications. This information is to be made available to the HSE by the Designated Officer, on request.

2.14 An organisation is required to provide training for employees and volunteers who have access to children in accordance with guidance and standards set down by the HSE under the *Safeguarding Guidance for Organisations* from which, as mentioned above, the organisation is required to develop its own *Keeping Children Safe Plan*, appropriate to the services provided by that organisation.

2.15 The Designated Officer is responsible for (or must have delegated that function to suitable person(s)) receiving concerns or allegations from employees or volunteers regarding the welfare of a child and for reporting in writing (or not reporting, as appropriate) cases to the HSE. The Designated Officer is also responsible for attending at meetings with the HSE as required, assisting the HSE in providing information regarding the assessment of risk to the child and assisting in any related matter. The Designated Officer is also to assist an employee or volunteer to provide a written report regarding a child welfare or protection concern to the HSE.

In general, the Designated Officer is to oversee the implementation of the *Safeguarding Guidance for Organisations* and his/her organisations own policy, the *Keeping Children Safe Plan*. The *Keeping Children Safe Plan* is to be made available to staff members, to children availing of the services and also to parents or guardians.

2.16 The *Keeping Children Safe Plan* is to be tailored to the services provided by the organisation. It is to promote awareness of child protection generally and to provide guidance and advice to employees, volunteers and parents / guardians on the procedures for reporting concerns or allegations of abuse to the Designated Officer and on the regime for reporting incidents of child abuse to the HSE. It also sets out that a Designated Officer is to develop a protocol for reporting concerns and allegations to the HSE to include:

- 1) Name, contact details and position of the person making the report;
- 2) Name, age and contact details of the child, parents or guardians, about whom the report is being made;
- 3) Nature of relationship between the reporter and the child;
- 4) Nature of the information and of the abuse;
- 5) Information regarding the alleged abuser;
- 6) Source of information;
- 7) Confirmation as to whether the parent/guardian is aware of the report;
- 8) Confirmation as to whether the child is aware of the report;
- 9) If parent/guardian and/or child are in agreement regarding the making of report;
- 10) Information on whether report in relation to the particular child or in relation to the alleged perpetrator had been made previously and if so the dates and concerns and any other information relating to the protection and welfare of the child or children.

2.17 A Designated Officer is also to maintain records of allegations or concerns about children's welfare reported to him/her. These records should clearly capture all instances where a Designated Officer is made aware of concerns about a child's welfare, and of instances of alleged abuse of a child.

2.18 As mentioned above a Designated Officer will be required to report, in writing, to the HSE allegations or concerns about children's welfare reported to him /her. The reporting of concerns or allegations is to be in accordance with the *Guidance for Reporting of Abuse* to be made available by the Department of Children and Youth Affairs (See Head 15).

2.19 Where an allegation or concern is **not** reported to the HSE, a Designated Officer's records should clearly indicate the basis of his/her decision not to report and any actions taken by him/her. Such decisions should be taken in accordance with the *Guidance for the Reporting of Abuse* (Head 15 refers) .

2.20 The legislation will provide for sanctions where a Designated Officer fails to meet safeguarding or reporting obligations. (Head 11 and 20 refer.)

2.21 A Designated Officer is to have a duty to cooperate with other Designated Officers and with the HSE, as required.

2.22 Following the making of a report of child abuse, a Designated Officer, on request, is to assist the HSE in the investigation of concerns or allegations being undertaken by the HSE; and in any related matter including the provision of additional written reports when requested by the HSE.

2.23 Organisations will be required to conduct an annual internal audit of compliance with requirements under the proposed legislation. The internal auditors will be appointed by the Designated Officer but will act independently of him/her. At the request of the HSE, an organisation will be required to provide the audit report to the HSE, with details of its child protection reporting record together with any other information requested by the HSE.

Obligations on employees and volunteers working in organisations (Head 10 refers)

2.25 The proposed legislation is to provide that an employee or volunteer of an organisation is to report to the Designated Officer any concerns or allegations of child abuse which come to their attention in the course of their employment, i.e. the obligation to report arises if the concern or allegation comes to the employee's knowledge while they are engaged in the activities of the organisation.

2.26 The proposed legislation is to provide that an employee or volunteer may report concerns or allegations of child abuse directly to the HSE without informing the Designated Officer, if he/she believes that it would be in the best interest of the child to do so. This is to ensure that reports are made, for example, if it arose that the concern or allegation could be linked in any way to the Designated Officer.

2.27 The proposed legislation is also to provide that where an employee or a volunteer knows or believes that the *Keeping Children Safe Plan* or the *Guidance for the Reporting of Abuse* has been breached he or she is to report such breaches to the Designated Officer.

2.28 Employees are to be treated in accordance with labour legislation if they fail to report any concern or allegation which should have been reported under the legislation. Where a volunteer fails to report any concern or allegation, he or she may be prohibited from working as a volunteer in that organisation, at the discretion of the Designated Officer following an enquiry and having regard to fair procedures.

Mandated Individual requirement to report (Head 11 refers)

2.29 It is intended that employees and volunteers who hold a supervisory post in relation to staff who work directly with children, will be required to report any concern or allegation of child abuse that comes to their attention in the course of their employment to the Designated Officer. A person/professional (as listed in Schedule 1) who works in an organisation is mandated to report any such concerns or allegations of abuse to the Designated Officer.

2.30 The Designated Officer's role in relation to reports made to him/her is set out in paragraph 2.33.

2.31 The legislation is to provide that a mandated professional (as listed in Schedule I), and who is a sole practitioner, or self employed, or not working in an organisation coming under the legislation, will be required to report any concern or allegation of abuse that comes to his/her attention in the course of his/her employment (i.e. only while engaged in work activities) to the HSE.

2.32 A mandated person / professional (i.e. a Designated Officer, and persons / professionals listed in Schedule 1 of the Heads of Bill) who fails to comply, with the requirement to report abuse or neglect is guilty of an offence under the legislation. It is also provided that a person who reports the matter to An Garda Síochána rather than the HSE may do so without committing an offence.

Reporting Criteria for those required to report to the HSE and /Or An Garda Síochána.

2.33 A Designated Officer or other mandated person who has concerns about the welfare of a child is to report, as soon as practicable, those concerns to the HSE.

2.34 Where An Garda Síochána receives a report of child abuse, An Garda Síochána will disclose to the HSE any concerns it has for the well-being of the child involved.

3. Notification to HSE by organisations (Head 8 refers)

3.1 There are a vast number of organisations providing services to children, which will come under the proposed legislation, ranging from large statutory agencies such as the HSE to small local services such as a local Hip Hop dance club. Some of these agencies are in receipt of State funding and have a formal relationship with the State; many others operate independently. There is currently no requirement for agencies / organisations providing services to children to notify the State of their services. (All such agencies should, however, be operating in accordance with the good practice principles set down in *Children First: National Guidance for the Protection and Welfare of Children.*)

3.2 For this reason, it is intended that all existing organisations coming under the Children First Bill will be required to notify the HSE within three months of the commencement of the Act. In the case of new organisations, at least twenty eight days notice is required prior to the commencement of their service for children. Organisations will also be required to notify the HSE within twenty eight days of any changes in the details of the notice.

3.3 Organisations will also be required to maintain records, certified by the Designated Officer, which are to be made available to the HSE on request, setting out the organisation's name, address and contact details; details of the nature of the work of the organisation; the Designated Officer's name and contact details; each employee's name, address and contact details, work details and arrangements in place for the vetting of employees; and arrangements in place for training for the Designated Officer, employees and volunteers.

3.4 Certain organisations will be deemed to have automatically notified the HSE on the commencement of the Act. These categories of organisations will be set out in a schedule to the draft legislation (Schedule II of Heads of Bill refers). The onus will be on all other organisations to notify the HSE, in accordance with the proposed legislation (Head 8 refers).

4. The role of the Health Service Executive (Heads 12 to 14 refer)

4.1 The HSE is to publish best practice guidance, known as *Safeguarding Guidance for Organisations*, covering the following : statutory requirements on organisations / Designated Officers / mandated persons; appropriate adult gender mix; guidance on level of supervision regarding activities such as showering and dressing; guidance on the use of photographs, videos etc; guidance to sectors whose organisations work directly with children who have specific vulnerabilities, such as children with a disability/children in care/children living away from their families for long periods/children whose parents have addiction or mental health problems/children who experience domestic violence. The HSE is to make this *Guidance* available to organisations notified, or deemed to be notified, to the HSE (Head 12(1)(c) refers).

4.2 The HSE is to provide an information and advisory service to assist Designated Officers to carry out their duties and responsibilities under the proposed Bill, as well as providing advice to Designated Officers and mandated persons which will allow them to make a decision whether to report a concern or allegation of abuse.

4.3 While the HSE is to provide advice, the decision whether to report remains with Designated Officer or other the mandated persons. It is not intended that advice provided by the HSE would be an acceptable defence in the context of decisions by mandated persons or Designated Officers not to report. In other words, the Designated Officer or mandated individual is responsible for the decision made – not the HSE.

4.4 The HSE is to provide information to the general public regarding standards in child protection for organisations under the legislation.

4.5 The HSE will be given the power to examine organisations where a breach of the legislation is suspected or brought to its attention. The legislation is to provide for actions to be taken by the HSE (under Head 14) where, following an examination, the HSE has found that an organisation has not complied with the legislation.

Monitoring and dealing with reports (by HSE).

4.6 The Child Care Act 1991 places a duty on the HSE to promote the welfare of children who are not receiving adequate care and protection and to take such steps as it considers necessary to identify those children. The HSE currently promotes awareness of, and best practice in, child welfare and protection policy and practices under the 1991 Act. This role is to be reflected in the proposed Bill.

4.7 The HSE will be required to appoint a person or persons to manage the administration of the HSE's child protection obligations under the legislation and to

take all necessary steps to ensure all reports of concerns and allegations of abuse made to the HSE are assessed in accordance with the Child Care Act 1991.

4.8 An organisation which has not notified the HSE of its activities may be directed by the HSE to do so if the HSE considers that the organisation concerned is one that comes under the legislation. The legislation is to provide that the HSE may issue a notice to the effect that the organisation is required to provide a formal notification to the HSE.

Compliance with the proposed legislation : Written Directions, Improvement Notices and Prohibitions.

Written Directions

4.9 It is intended that the HSE take all necessary steps to ensure compliance with the proposed legislation. The HSE is to have the power, in respect of all organisations which come under the legislation, to examine and inquire into the services and practices of that organisation to establish whether it is in compliance with the legislation. The HSE is to determine whether there is occurring, or is likely to occur, a failure to implement the *Safeguarding Guidance for Organisations* and the *Keeping Children Safe Plan* which is, or is likely to involve, a risk to the safety or welfare of a child.

4.10 Where the HSE is of the opinion that there is occurring or likely to occur an activity which involves or is likely to involve a risk to a child in the organisation, the HSE may give written directions to the Designated Officer, requiring him/her to provide an Improvement Plan.

4.11 The direction given by the HSE is to identify the activity which contravenes the Bill, and is to require the submission to the HSE, within a period to be specified, an Improvement Plan specifying the remedial action proposed to be taken by the organisation.

4.12 Within one month of receipt of an Improvement Plan, the HSE, by written notice to the Designated Officer, is to confirm whether or not it is satisfied that the Plan is adequate, or may direct that the Plan be revised as specified in the notice and resubmitted to the HSE within a period specified in the notice.

Improvement Notices

4.13 Where the HSE is of the view that the issue requires more immediate attention, or where the HSE is of the view that an organisation has not submitted an Improvement Plan or complied with the Improvement Plan, or the organisation is in breach of the legislation, the HSE may issue an Improvement Notice to the Designated Officer.

4.14 The Improvement Notice should state the reason the HSE is of the opinion that the organisation is in breach of the legislation, identify the relevant statutory provision, direct the organisation/Designated Officer to remedy the breach and set out the procedures to appeal.

4.15 An Improvement Notice may include directions as to the measures to be taken to remedy any contravention or matter to which the notice relates or to otherwise comply with the notice.

4.16 A person, on receipt of an Improvement Notice, may appeal against the Notice to the District Court. In determining the appeal the Judge may confirm, vary or cancel the Notice. Where an appeal is taken, and the Notice is not cancelled, the Notice will take effect on the later of the day next following the day on which the notice is confirmed on appeal or the appeal is withdrawn, or the day specified in the Notice

4.17 Where the organisation satisfies the HSE in regard to the issues identified in the Improvement Notice, the HSE is to write to the organisation giving confirmation of compliance with the Improvement Notice.

Prohibition Notice

4.18 Where the HSE is of the opinion that there is occurring or is likely to occur a failure to implement child protection policies which involve, or is likely to involve, a risk to the safety or welfare of a child the HSE may serve a Prohibition Notice on the Designated Officer of that organisation. A Prohibition Notice is to inform the organisation that the HSE is of the opinion that there is occurring or is likely to occur a failure to implement child protection policies which involves, or is likely to involve, a risk to the safety or welfare of a child and the reasons for that opinion. The Notice is also to specify the activity in respect of which that opinion is held, where in its opinion the activity involves a contravention, or likely contravention, of any of the relevant statutory provisions, and specify the relevant statutory provision(s).

4.19 A Prohibition Notice may prohibit the carrying on of the activity concerned until the matters which give rise, or are likely to give rise to the risk, are remedied. The Prohibition Notice may include directions as to the measures to be taken to remedy any contravention or matter to which the notice relates or to otherwise comply with the Notice. The Prohibition Notice is to take effect from the date the Notice is received by the Designated Officer.

4.20 A Designated Officer on whom a Prohibition Notice has been served who is of the opinion that the matters referred to in the notice have been remedied by the date specified in the Notice, is to confirm in writing to the HSE that those matters have been so remedied.

4.21 A Designated Officer, on receipt of a Prohibition Notice may appeal against the Notice to the District Court. In determining the appeal the Judge may confirm, vary or cancel the Notice. Where an appeal is taken, the Prohibition Notice is to take effect on the later of the day next following the day on which the notice is confirmed on appeal or the appeal is withdrawn, or the day specified in the Notice.

4.22 Where a Prohibition Notice is confirmed, the Judge who hears the appeal may, on the application of the appellant, suspend the operation of the Notice for a specified period.

4.23 Where a person on whom a Prohibition Notice has been served confirms in writing to the HSE that the matters referred to in the Prohibition Notice have been remedied, the HSE will, on being satisfied that the matters have been so remedied, within one month of receipt of such confirmation, give written notice to the person concerned of compliance with the Prohibition Notice.

4.24 The HSE may at any time withdraw a Prohibition Notice by written notice to the person on whom it was served where it is satisfied that the activity to which the notice relates no longer involves a risk to a child, or where it is satisfied that the Notice was issued in error or is incorrect.

4.25 Where an Improvement Notice or a Prohibition Notice is served, the notice is to be brought to the attention of any persons affected by the notice and displayed in a prominent place in the organisation.

5. Guidance for the Reporting of Abuse – Department of Children and Youth Affairs (Head 15 refers)

5.1 It is intended that the Department of Children and Youth Affairs publish *Guidance for the Reporting of Abuse* for organisations and mandated persons coming within the scope of the proposed legislation providing guidance on all aspects of reporting of concerns or allegations of child abuse. This Guidance will be made available to all organisations notified or deemed to be notified to the HSE and will be published via the Internet.

The Guidance is to be regularly reviewed by the Department of Children and Youth Affairs in accordance with developments in child protection and welfare.

6. Data Protection Act (Head 18 refers)

6.1 The Data Protection Acts 1988 and 2003 apply in relation to data collected, processed, kept and used in accordance with this Bill but the policy intent is that the Data Protection Acts are not to prevent the exchange of information under this Bill which is exchanged for the purpose of protecting a child.

7. Implementation of this Bill by relevant Government Departments and the agencies under the aegis of those Departments. (Head 19 refers)

7.1 The proposed legislation is to provide that the Minister for Health, the Minister for Education and Skills, the Minister for Justice and Equality, the Minister for Arts, Heritage and Gaeltacht Affairs, the Minister for the Environment, Community and Local Government, the Minister for Social Protection and the Minister for Transport, Tourism and Sport are to provide to the Minister for Children and Youth Affairs information in relation to the implementation of the legislation by their Departments and in relation to the agencies, which come within the ambit of the legislation which are under the aegis of their Departments. The information to be provided is to include, in particular, statistical information and other records as to proper planning in relation to the proposed Bill. The policy intent is to ensure that the Minister for Children and Youth Affairs can ensure that the relevant Government

Departments have measures in place for the implementation of the proposed Bill both in their own Departments and in agencies under their remit which are “organisations” under this proposed Bill.

8. Offences and Liabilities (Heads 11 and 20 refer)

8.1 The proposed legislation is to provide that a person who is found guilty of the offence of not reporting neglect or child abuse to the HSE which should have been reported in accordance with reporting criteria (Head 11 refers) will be liable on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years or both. A person who reports the matter to the An Garda Síochána rather than the HSE may do so without committing an offence. Head 16 provides that An Garda Síochána must report to the HSE any reports it receives in respect of child abuse or concerns for the safety of a child.

DRAFT

HEADS OF BILL

CHILDREN FIRST BILL 2012

SECTIONS

PART 1 PRELIMINARY AND GENERAL

1. Short title and commencement.
2. Interpretation.
3. Regulations.
4. Expenses.
5. Aims and principles.

PART 2 ORGANISATIONS – ROLES, RESPONSIBILITIES AND DUTIES

6. Organisation with a statutory obligation to report child abuse.
7. Organisations.
8. Notification to HSE by organisations.
9. Designated Officer in organisation under Head 6 (which is subject to reporting of abuse).
10. Organisations' requirements on employees or volunteers.
11. Person's statutorily charged with reporting child abuse.
12. Health Service Executive.
13. Monitoring and dealing with reports (by HSE).
14. Written Directions, Improvement Notices and Prohibition Notices.
15. *Guidance for the Reporting of Abuse* – Department of Children and Youth Affairs.
16. Reporting Criteria.

PART 3 CO-OPERATION AND INFORMATION SHARING

17. HSE and An Garda Síochána requirement to co-operate.
18. Data Protection Act.

PART 4
CHILDREN FIRST IMPLEMENTATION PLANS

19. Implementation of this Bill by relevant Government Departments and the agencies under the aegis of those Departments.

PART 5
OFFENCES

20. Offences.

SCHEDULE I

**PROFESSIONALS
STATUTORILY CHARGED
WITH REPORTING CHILD ABUSE**

SCHEDULE II

ORGANISATIONS DEEMED NOTIFIED TO THE HSE UNDER HEAD 8(2)

ACTS REFERRED TO

Child Care Act 1991	No 17 of 1991
Data Protection Acts 1988 and 2003	No. 250 of 1988 No. 6 of 2003
Youth Work Act 2001	No 42 of 2001
Health Act 2004	No 42 of 2004

**A BILL TO PROVIDE FOR THE PROTECTION OF CHILDREN AND
RELATED MATTERS.**

PART I

PRELIMINARY AND GENERAL

1. Short title and commencement

Head 1 is to provide for the short title to the Bill and for its commencement.

Head 1 – Provide that:

(1) This Bill may be cited as the Children First Bill 2012.

(2) This Bill will come into operation on such day or days as may be fixed by order or orders made by the Minister, either generally or by reference to any particular purpose or provision, and different days may be so fixed for different provisions and different purposes of the Bill.

Explanatory note:

This Head is a standard provision giving the short title and providing for the provisions of the Bill to come into operation at such time or times as may be specified by the Minister. The Head also provides that different provisions can come into operation on different days.

2. Interpretation

Head 2 is to provide for the definition of terms used in the Bill.

Head 2 – Provide that:

In this Bill:-

“abuse” means sexual abuse, physical abuse or neglect of a child;

“child” means a person under the age of 18 years other than a person who is or has been married;

“concern” means information which would lead a person to suspect that a child is being abused;

“employment” includes –

- (a) full time work for which a person is paid,
- (b) part time work for which a person is paid,
- (c) placements as part of professional training or other educational course, including internship schemes,

“Minister” means the Minister for Children and Youth Affairs;

“neglect” means significant harm or impairment of development to a child by being deprived of food, clothing, warmth, hygiene, intellectual stimulation, supervision and safety, attachment and affection from the person or persons charged with caring for the child, medical care;

“physical abuse” means any form of non-accidental injury or injury that results from a wilful failure to protect a child;

“sexual abuse” includes activity in which:

- (i) a child is used exploitatively by another person for his or her gratification or sexual arousal, or that of others;
- (ii) a person causes, induces or coerces a child to participate in any sexual activity, or observe any other person engaging in sexual activity;
- (iii) activity relating to the sexual exploitation of a child as defined in Section 3 of the child Trafficking and Pornography Act, 1998

For the purposes of this definition, sexual abuse between children is considered to have occurred; where by reason of the differences in age or status between the two children, one child exercises sufficient authority or power over the other child to coerce or induce that other child to engage in sexual activity; or where one of the children is deemed by reason of their age or maturity, to have insufficient capacity to have consented to the activity.

Notwithstanding the provision of (ii) above, it is presumed that consensual sexual activity permitted by law is not sexual abuse, however, this presumption may be rebutted.

“volunteer” means a person who performs a service on behalf of an organisation willingly and without pay;

Explanatory note:

This Head is a standard provision containing definitions of the key terms of the Bill. The definition of “employment” could include volunteers but it is intended that “volunteers” will be mentioned throughout the Bill. The reasoning behind the policy to do so is because the sector this proposed legislation is dealing with relies heavily on volunteers and the tone of the legislation should reflect this.

The definition of “volunteer” is not intended to include a person’s involvement in a school run, or collecting children from sports events, or parents supervising their own children’s activities with friends or any such like activities.

Regarding the definition of “sexual abuse” - while the majority of sexual abuse of children is perpetrated by adults, research shows that teenagers perpetrate a considerable proportion of child sexual abuse. In considering the definition of abuse, regard should be had to the guidance contained in *Children First: National Guidance* in respect of sexual abuse by children and young people. The Head as drafted intends to reflect the Guidance in respect of this matter including the consideration of the important criteria to be used in assessing abusive behaviour with regard to status, power, intellect and age.

At the same time, it is not the intention that legal sexual activity between persons defined as a child under this Act would be considered abuse. Therefore, a presumption is included in relation to this matter, although this presumption can be rebutted.

Note: The following documents are mentioned in the Heads of Bill and are explained here for ease of reference:

Children First: National Guidance for Protection and Welfare of Children:

Children First: National Guidance for Protection and Welfare of Children is national guidance produced by the Department of Children and Youth Affairs that promotes the protection of children from abuse and neglect. It states what organisations need to do to keep children safe, and what different bodies and the general public should do if they are concerned about a child’s safety and welfare. The Guidance sets out specific protocols for HSE social workers and An Garda Síochána front line staff in dealing with suspected abuse and neglect.

Safeguarding Guidance for Organisations: This best practice guidance for organisations is to be produced by the HSE and is to provide advice and information and promote awareness and best practice in the area of child welfare and protection. The guidance will be provided to all organisations which notify or are deemed notified to the HSE. (Head 12)

Guidance for the Reporting of Abuse: the Department of Children and Youth Affairs is to publish guidance entitled *Guidance for the Reporting of Abuse*. The guidance will deal with all aspects of the reporting of concerns and allegations of child abuse by organisations and by persons statutorily required to report child abuse and it will be provided to all organisations which notify or are deemed notified to the HSE and be published via the Department's internet service and provided to professional groups etc. (Head 15)

Keeping Children Safe Plan: Each organisation coming within Head 6 is to prepare a *Keeping Children Safe Plan* tailored to that organisation's service and which is to be based on both the *Safeguarding Guidance for Organisations* produced by the HSE and the *Guidance for the Reporting of Abuse* produced by the Department of Children and Youth Affairs. (Head 7)

3. Regulations

Head 3 is to provide that the Minister may make regulations on any matter referred to in the Bill and for the laying of those regulations before the Houses of the Oireachtas.

Head 3 – Provide that:

(1) The Minister may from time to time make regulations prescribing any matter or thing which is referred to in this Bill as prescribed or to be prescribed.

(2) Every regulation under this section is to be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House sits after the order or regulation is laid before it, the regulation will be annulled accordingly, but without prejudice to anything previously done thereunder.

Explanatory note:

This Head is a standard provision to allow for regulations to be made by the Minister.

4. Expenses

Head 4 is to provide for the expenses incurred by the Minister in the administration of the Bill.

Head 4 – Provide that:

(1) The expenses incurred by the Minister in the administration of this Bill will, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

Explanatory note:

This Head is a standard provision to provide for the administration costs of the Bill.

5. Aims and principles

The purpose of this Head is to emphasise that the wellbeing of the child is the overarching principle at the centre of the Bill. Head 5 also covers the policy intent that obligations arising under *Children First: National Guidance for Protection and Welfare of Children* are to operate in conjunction with this Bill. A further objective of this Head is to confirm and affirm that the principles and guidelines set out in *Children First: National Guidance for Protection and Welfare of Children* remain operative and are to be implemented in conjunction with the Bill's provisions. In particular it is intended that this Head ensures that the reporting principles and guidelines set out in *Children First: National Guidance for Protection and Welfare of Children* continue to apply.

Head 5 - Provide that:

(1) All persons who are involved in any matter or in any capacity which relates to the operation of this Bill is to have regard to the welfare and protection of the child and this is to be the first and paramount concern.

(2) Organisations (Head 7), employees or volunteers (Head 6(1)(b)(i) and (ii)), Designated Officers (Head 9), persons statutorily charged with reporting child abuse (Head 11), the HSE and An Garda Síochána, are to have due regard to *Children First: National Guidance for the Protection and Welfare of Children*.

(3) Nothing in this Bill is to interfere with or diminish in any way the duties and responsibilities of any person which arise under the *Children First: National Guidance for the Protection and Welfare of Children*.

(4) Nothing in this Bill is to deter a person from reporting concerns or allegations of child abuse directly to the HSE or to An Garda Síochána and any such reports should be made in accordance with the *Children First: National Guidance for the Protection and Welfare of Children*.

(5) Nothing in this Bill is to deter the referral of a concern or allegation of child abuse to the HSE or to An Garda Síochána that does not reach the level of risk as set out in the *Guidance for the Reporting of Abuse* provided for in Head 16.

(6) The obligations imposed in this Bill are in addition to and are not in substitution of any other legal obligations a person has to disclose information to An Garda Síochána.

Explanatory note:

Subhead (1) – The purpose of subhead (1) is to ensure that all persons who come under the provisions of this Bill, as their first and paramount concern, have regard to the welfare and protection of the child.

Subhead (2) - The purpose of subhead (2) is to specifically require that persons who have a legal obligation under the Bill to report concerns or allegations of child abuse

and the HSE and An Garda Síochána who deal with those reports have due regard to *Children First: National Guidance for the Protection and Welfare of Children* and this has been included in order to reinforce that the *Guidance* is central to the legislation.

Subhead (3) – It is intended that the duties and responsibilities which have been set out in *Children First: National Guidance for the Protection and Welfare of Children* continue as heretofore and thus the purpose of subhead (3) is to ensure that the provisions of the Bill do not interfere with or diminish those duties and responsibilities.

Subhead (4) – The purpose of subhead (4) is to ensure that the provisions of the Bill do not deter a person from reporting concerns or allegations of child abuse directly to the HSE or to An Garda Síochána and also to provide that any such reports may be made in accordance with the procedures as set out in *Children First: National Guidance for the Protection and Welfare of Children*.

Subhead (5) – The purpose of subhead (5) is to ensure that it is clear that where a person has a concern or an allegation of child abuse, even where that person feels that that concern or allegation does not reach the level of risk as set out in the *Guidance for the Reporting of Abuse*, he or she may refer it directly to the HSE or to An Garda Síochána.

Subhead (6) – the purpose of subhead (6) is to provide that the provisions of this Bill are in addition and do not substitute any other legal obligation a person has to disclose information to An Garda Síochána.

PART 2

ORGANISATIONS – ROLES, RESPONSIBILITIES AND DUTIES

6. Organisations with a statutory obligation to report child abuse

Head 6 provides for those organisations which come within the meaning of the Bill. It also sets out the description of an organisation where there is a statutory obligation to report a concern or an allegation of child abuse to the HSE. Head 7 provides that an organisation, in this Bill, is one which provides services which may be attended by a child without the child's parent or guardian, or other adult to whom the parent or guardian has entrusted the child, and where a person working in the organisation has access to the child or works directly with the child availing of the organisation's service. (In some situations, persons will have access to children who do not as such work with children; hence both situations are referred to.)

Head 6 lists the types of services provided by organisations coming under the legislation as including those services where children would attend including; services under Part 7 of the Child Care Act 1991 (i.e. Pre-school and after school services), recreational, educational, cultural, religious, spiritual or charitable pursuits, health care, therapeutic or disability services, services with a residential component, transport services provided specifically for children - whether or not such services are provided by the State or its agencies or on its behalf under contract or otherwise (i.e. both State and private services for children are included).

Head 6 also lists those services etc. which are not encompassed by the Head i.e. those which would have general public access, e.g shops, cinemas; be provided to a child by a person directly employed by the child's parent or guardian; be provided by a person employed in the child's own home; the employment of children e.g. apprentices; gyms, beauty and leisure facilities which cater for adults but allow children to use their facilities; and private arrangement made by parents or guardians e.g. school collection of children ; play dates or such like arrangements.

Head 6 – Provide that:

(1) An organisation under this Bill is any organisation which provides services where a child can attend such services

- (a) without (i) a parent, or (ii) a guardian, or (iii) any other adult to whom the parent or guardian has entrusted a child, being present,
- and
- (b) where an employee or volunteer, in the organisation, has, in the course of their employment (i) access to a child, or (ii) works directly with a child.

(2) The services referred to in subhead 1, include:

- (i) services under Part 7 of the Child Care Act 1991 (i.e. Pre-school and after school services),
- (ii) recreational, educational, cultural, religious, spiritual or charitable pursuits, health care, therapeutic or disability services,
- (iii) services with a residential component,
- (iv) transport services provided specifically for children (e.g. school bus),

whether or not such services are provided by the State or its agencies or on its behalf under contract or by a private provider (with no contractual relationship with the State).

(3) The following are not included in subhead (1):

- (a) services with general public access including shops, stores, malls, theatres, cinemas, restaurants, cafes, takeaways, food outlets, public transport, fairgrounds, amusement parks, public park, markets, community festivals and other services similar to these services;
- (b) services provided to the child where the child's parent or guardian directly employs the person providing the service;
- (c) persons employed in the child's own home (e.g. a child minder, housekeeper etc.);
- (d) employment of children (e.g. apprenticeships);
- (e) third-level education;
- (f) gyms, beauty and leisure facilities which cater for adults but allow children to use their facilities
- (g) private arrangements made by parents and guardians for their children e.g. school collection of children, play dates or such like arrangements.

Explanatory note:

Head 6 describes those organisations which come within the ambit of the Bill (which will have a statutory obligation to report a concern or allegation of child abuse to the HSE.)

Subhead (1) – the purpose of subhead (1) is to describe an organisation for the purposes of this Bill. Such an organisation is one which provides services which may be attended by a child without the child's parent or guardian or other adult, to whom the parent or guardian has entrusted the child, being present and where a person working in the organisation has access to the child or works directly with the child availing of the organisation's service.

Subhead (2) – the purpose of subhead (2) is to describe the types of services provided by organisations which are referred to in subhead (1) i.e. services listed in subhead (2)(i) to (iv) above for children.

Subhead (3) – the purpose of subhead (3) is to describe services / organisations which

are not included – these are largely those services which would have general public access, services provided to a child by a person directly employed by the child’s parent, persons employed in the child’s own home (e.g. housekeeper, nanny etc.) and the employment of children (e.g. apprentices or casual work carried on by children), third level education, gyms, beauty and leisure facilities which cater for adults but allow children to use their facilities; and private arrangements made by parents or guardians e.g. school collection of children , play dates, and such like arrangements.

[Note: where an “employment of a child” is in an organisation which falls under Head 6(1) and (2) that organisation would remain an organisation for the purposes of the Bill. However, the employment of a child in an organisation outside of Head 6 would, not of itself, bring that organisation under the Bill.]

7. Organisations

Head 7 provides for the responsibilities of organisations which come under the Bill including the protection of children while they are availing of the services of the organisation, the appointment of a Designated Officer; the *Keeping Children Safe Plan*; promoting awareness in best practice in child welfare and protection, the vetting and training of staff and the provision of information to the HSE.

Head 7 – Provide that:

Organisations which come within Head 6 will be required to:

- (1) Ensure, as far as practicable, that children are protected in accordance with the provisions of the Bill while they are present at or availing of services which are provided by or on behalf of the organisation;
- (2) Appoint a Designated Officer (Head 9);
- (3) Prepare and keep reviewed and updated a *Keeping Children Safe Plan* based on the *Safeguarding Guidance for Organisations* provided by the HSE and the *Guidance for the Reporting of Abuse* provided by the Department of Children and Youth Affairs;
- (4) Approve, at Board of Management or equivalent level, the written *Keeping Children Safe Plan* and any revisions of the *Plan* which is prepared by the Designated Officer. The *Plan* is to include details of the services which the organisation provides to children;
- (5) Ensure that a copy of the *Keeping Children Safe Plan* is kept on the premises and made available to (a) a parent or guardian of a child attending or proposing to attend the service or (b) a child attending the service or (c) any person working in the service, on request;
- (6) Operate in accordance with the *Safeguarding Guidance for Organisations* provided by the HSE (Head 12(1)(b));
- (7) Ensure, as far as practicable, that each employee or volunteer (Head 6(1)(b)(i) and (ii)) is suitable to work with children;
- (8) Make a vetting application to the National Vetting Bureau for each volunteer;
- (9) Actively promote in the organisation awareness of, and best practice in, child welfare and protection. This is to include making available to each employee or volunteer information on the procedure for reporting a concern or allegation of child abuse to the Designated Officer or as appropriate direct to the HSE which comes to that employee's or volunteer's attention in the course of his / her employment (i.e. when engaged in the activities of the organisation);
- (10) Actively promote to parents and children awareness of, and best practice in, child welfare and protection, including making available to parents and children information on the procedure for reporting a concern or allegation of child abuse to the Designated Officer, or to the HSE which comes to a parent's or a child's attention in the course of availing of services provided by the organisation;
- (11) Provide training to employees or volunteers;
- (12) Actively support each employee or volunteer to promote best practice in child welfare and protection;

- (13) Identify and record the following information in relation to each employee or volunteer:
- (i) Name;
 - (ii) Home address and contact details;
 - (iii) The nature of the employee's or volunteer's work in the organisation;
 - (iv) Confirmation that the employee or volunteer has been vetted;
 - (v) Details of training completed by employee or volunteer.
 - (vi) Any other relevant information.

This record is to be certified by the Designated Office and is to be made available to the HSE when requested;

- (14) Conduct an annual internal audit of the organisation's compliance with the Bill. To do so:
- (i) Each organisation is to have an internal audit committee, consisting of 3 persons appointed by the Designated Officer, which acts independently of the Designated Officer;
 - (ii) At least one member of the internal Audit Committee is to have experience of working with children;
 - (iii) The internal audit committee is to conduct an annual review of the effectiveness of the implementation, within the organisation, of both the *Keeping Children Safe Plan* and the Bill generally, and to report their findings to the Designated Officer together with their recommendations. The Audit Committee is to have a particular focus on managing any safety or welfare risks to children who avail of the services provided by the organisation;
 - (iv) The Designated Officer is to implement the recommendations of the internal audit committee made in accordance with (iii) above.
 - (v) If the Audit Committee is of the view that the organisation is in breach of this Bill and has concerns that it believes should be brought to the attention of the HSE, it should do so;
- (15) When requested by the HSE the Designated Officer is to provide information in relation to:
- (i) the annual internal audit conducted under subhead (14).
 - (ii) details on its child protection reporting or non-reporting, as the case may be.

Explanatory note:

This Head sets out the duties of an organisation (i.e. an organisation which falls under Head 6), which provides services to children.

Subhead (1) – The purpose of subhead (1) is to provide for an overarching obligation on organisations to ensure that children, while they are availing of the organisation’s services, are protected.

Subhead (2) – The purpose of subhead (2) is to provide for an organisation to appoint a Designated Officer.

Subhead (3) – The purpose of subhead (3) is to provide for an organisation to prepare, and to keep updated a *Keeping Children Safe Plan*.

Subhead (4) – The purpose of subhead (4) is to provide that the *Keeping Children Safe Plan* and its revisions are approved by the organisation’s Board of Management or equivalent. Subhead (4) also requires that the Plan includes details of the services the organisation provides to children.

Subhead (5) – The purpose of subhead (5) is to provide for an organisation to keep a copy of the *Keeping Children Safe Plan* on the premises and that the Plan be made available, when requested, by a parent or guardian of a child attending or proposing to attend the service provided by the organisation, or by a child attending the service, or by a person working in the organisation.

Subhead (6) – The purpose of subhead (6) is to provide for an organisation to operate in accordance with the *Safeguarding Guidance for Organisations* which is provided by the HSE.

Subhead (7) – The purpose of subhead (7) is to provide for an organisation to ensure that each employee or volunteer is suitable to work with children.

Subhead (8) – The purpose of subhead (8) is to provide for an organisation to make a vetting application for each employee or volunteer.

Subhead (9) – The purpose of subhead (9) is to provide for an organisation to actively promote awareness and best practice in child welfare and protection and this would include making available to employees or volunteers information on the procedure for reporting a concern or allegation of child abuse to the Designated Officer or the HSE, as appropriate, which comes to an employee’s or volunteer’s attention in the course of his / her employment with the organisation (i.e. when engaged in the activities of the organisation).

Subhead (10) – The purpose of subhead (10) is to provide for an organisation to actively promote awareness and best practice in child welfare and protection and this would include making available to parents and to children availing of the organisation’s service, information on the procedure for reporting a concern or allegation of child abuse to the Designated Officer or the HSE, as appropriate, which comes to a parent’s or a child’s attention in the course of availing of the service provided by the organisation.

Subhead (11) – The purpose of subhead (11) is to provide for an organisation to provide training to employees or volunteers.

Subhead (12) – The purpose of subhead (12) is to provide for an organisation to support each employee or volunteer so that the employee / volunteer in the organisation promotes best practice in child welfare and protection.

Subhead (13) – The purpose of subhead (13) is to provide for an organisation to identify and record certain information in respect of each employee or volunteer and that record is to be certified by the Designated Officer.

Subhead (14) – The purpose of subhead (14) is to provide for an organisation to conduct an annual internal audit of the organisation's compliance with this Bill. Where the internal audit committee makes recommendations they are to be implemented by the Designated Officer. If the Audit Committee has concerns that the organisation is in breach of the Bill it is to bring those concerns to the attention of the HSE.

Subhead (15) – The purpose of subhead (15) is to provide for an organisation, when requested by the HSE, to provide information in relation to the annual internal audit and details on its child protection reporting / non-reporting to the HSE. This is to ensure that the HSE has access to the findings of the Internal Auditor's report and its recommendations together with the records of child abuse cases reported or cases brought to the Designated Officer's attention which were not reported.

8. Notification to HSE by organisations

Head 8 provides for the arrangements for an organisation which comes under the Bill to notify the HSE of its existence, the service to be provided by it to children, of any changes in the service it provides if there is a change to such services, and sets out details of information an organisation is required to hold and make available to the HSE i.e. organisation's name, address and contact details; details of the nature of the work of the organisation; organisation's Designated Officer's name, title and contact details; each employee's or volunteer's name, address and contact details, work details and vetting history; arrangements in place for the vetting of employees or volunteers; arrangements in place for training for the Designated Officer, employees or volunteers; and a copy of the organisation's notice which is to be displayed prominently stating the name of the Designated Officer and inviting any questions, comments or concerns from employees or volunteers, parents and children. If the organisation has not got a premises or exclusive use of a premises, the organisation is to take all reasonable steps to publicise the information.

Head 8 also provides that certain organisations, specified in Schedule II to the Bill, are deemed to be notified to the HSE.

Head 8 – Provide that:

(1) An organisation which is providing a service to children which comes within Head 6 is to:

- (a) give notice in writing to the HSE within 3 months of the commencement of this Bill;
- (b) at least 28 days before commencement of the service give notice in writing to the HSE;
- (c) notify the HSE in writing of the name and contact details of the Designated Officer (appointed under Head 9(1));
- (d) within 28 days, notify in writing the HSE of any changes in the particulars contained in the notice given by that person under subhead (a) or (b);
- (e) keep a record, certified by the Designated Officer, of the following information, which will be made available to the HSE on request:
 - (i) Organisation's name, address and contact details;
 - (ii) Details of the nature of the activity of the organisation;
 - (iii) Organisation's Designated Officer name, title and contact details;
 - (iv) Each employee's or volunteer's name, address and contact details, work details and confirmation that s/he has been the subject of vetting by the National Vetting Bureau;
 - (v) Arrangements in place for the vetting of employees or volunteers;
 - (vi) Arrangements in place for training for Designated Officer, employees or volunteers;
 - (vii) Copy of notice, which the Designated Officer is to ensure is displayed prominently in the organisation's premises and

on its website, in accordance with the *Safeguarding Guidance for Organisations*, stating the name of the Designated Officer and inviting any questions, comments or concerns from employees or volunteers, parents and children. If the organisation has not got a premises or exclusive use of a premises, the organisation is to take all reasonable steps to publicise the information.

(2) For the purposes of this Head organisations listed in Schedule II will be deemed to have been notified to the HSE.

(3) Subheads (1)(c) and (1)(e) apply to all organisations which come under Head 6 whether notified to the HSE or deemed to be notified under subhead (2).

Explanatory note:

Subhead (1)(a) – the purpose of subhead 1(a) is to require organisations, which are in existence on the commencement of the Bill, to give notice in writing to the HSE, within 3 months of the Bill’s commencement. The time period of 3 months is given so that the HSE can administratively cope with the notifications.

Subhead (1)(b) – the purpose of subhead 1(b) is to require organisations, which are set up following the commencement of the Bill, to give notice in writing to the HSE a minimum of 28 days before the service commences. The time period of 28 days is provided to give a ‘lead-in’ time for the HSE.

Subhead (1)(c) – the purpose of subhead 1(c) is to require organisations to notify the HSE in writing of the name and contact details of their Designated Officer.

Subhead (1)(d) – the purpose of subhead 1(d) is to require organisations to notify the HSE in writing of any changes in the information which they provided in the original notification to the HSE within 28 days of such changes occurring. This is to ensure that information with the HSE is up to date.

Subhead (1)(e) – the purpose of subhead 1(e) is to set out the information to be kept on record by the organisation and which is to be made available to the HSE on request. The information includes: the organisation’s name, address and contact details; details of the nature of the work of the organisation; the organisation’s Designated Officer name, title and contact details; each employee’s or volunteer’s name, address and contact details, work details and vetting history; the arrangements in place for the vetting of employees or volunteers; the arrangements in place for training for Designated Officer and employees or volunteers; a copy of the notice that is required to be displayed prominently in the organisation’s premises and on its website, stating the name of the Designated Officer such notice to invite any questions, comments or concerns from employees or volunteers, parents or children. If the organisation does not have a premises or the exclusive use of a premises, the organisation is to take all reasonable steps to publicise the information.

Subhead (2) – Subhead (2) provides that those organisations which are listed in Schedule II of the Bill are deemed to have been notified to the HSE for the purposes of this Head.

Subhead (3) – Subhead (3) provides that subheads (1)(c) and (1)(e) apply to all organisations whether notified to the HSE or deemed to be notified under subhead (2) i.e. all organisations under the Bill will notify the HSE of the Designated Officers name and contact details and keep a record of certain information to be made available to the HSE on request.

9. Designated Officer in organisation coming under Head 6

Head 9 provides that an organisation which comes under Head 6 is to appoint a Designated Officer whose functions may be delegated to an employee or volunteer of senior management rank. However, it is intended that the Designated Officer remains responsible for the functions s/he is required to perform under the Bill.

Head 9 provides for the functions of the Designated Officer which includes receiving, from employees or volunteers concerns or allegations of child abuse and reporting them to the HSE in accordance with the *Guidance for the Reporting of Abuse* (provided for under Head 15). It is intended that concerns or allegations of child abuse are to relate to abuse the child may have encountered while in the organisation and also to abuse which may have happened outside the organisation but where the information has come to the employee's or volunteer's attention while involved in the work / activity of the organisation. Should the Designated Officer decide not to report a concern or allegation of child abuse brought to his / her attention, s/he must record, at the time of making the decision not to report, his / her reasons for not reporting and any action s/he takes in relation to the case.

Head 9 also provides for the Designated Officer to assist the HSE and to participate as required in the assessment of risk, in the investigation of concerns or allegations of child abuse being undertaken by the HSE, and in any related matter including providing additional written reports to the HSE on request. The Designated Office is also required to provide reports and information to the HSE additional to reports of abuse, which are material to the protection and welfare of a particular child or children in general.

Head 9 – Provide that:

Appointment of Designated Officer

(1)

- (a) In an organisation coming within this Bill, the most senior officer, manager or person, as designated by the employer, in writing, or if not designated, then the most senior person employed by the organisation is the Designated Officer for the purposes of this Bill;
- (b) The function of the Designated Officer may be performed by one or more employees or volunteers of senior management rank who have the authority and competence to undertake the role and are authorised by the Designated Officer to do so.
- (c) An organisation must appoint one of its number to be the Designated Officer.

Functions of Designated Officer

(2)

- (a) The Designated Officer, or the employee, in the course of his / her employment, or the volunteer, while engaged in the activities of the organisation, so authorised to perform the function of the Designated Officer under subhead 9(1)(b), will record:
 - (i) all concerns or allegations of child abuse brought to his / her attention, and
 - (ii) the actions taken following receipt of a concern or allegation of child abuse made under subhead (2)(a)(i);
- (b) The Designated Officer, or the employee or volunteer so authorised under subhead (1)(b), is to report in writing to the HSE in accordance with the *Guidance for the Reporting of Abuse* (see Head 15) a concern or allegation of child abuse in relation to a child attending or availing of services provided by the organisation or which comes to his / her attention in the course of his / her employment (i.e. while s/he is engaged in the activities of the organisation) in relation to any child where that concern or allegation meets criteria set out in the *Guidance for the Reporting of Abuse* provided for in Head 15.
- (c) If the Designated Officer or the employee or volunteer so authorised, under subhead (1)(b), decides not to report the concern or allegation of child abuse brought to his/her attention in the course of his/her employment, a record of the reasons for not reporting is to be recorded by him / her at the time of making of any such decision and that record is to include any action taken as a result of that concern or allegation brought to his/her attention.
- (d) If the employee or volunteer authorised under subhead (1)(b) decides not to report s/he is to inform the Designated Officer and the Designated Officer must be in agreement with that decision. If the Designated Officer is not in agreement with the decision s/he is to report the concern or allegation of child abuse under subhead (2)(b).
- (e) Any action or decision taken under subhead (2) is to be taken in accordance with the *Guidance for the Reporting of Abuse* provided for in Head 15.

(3) The Designated Officer, or the employee or volunteer so authorised under subhead (1)(b), is to:

- (a) where required, co-operate with other Designated Officers and with the HSE;
- (b) carry out the function, as provided for in Head 7(3), to prepare, keep reviewed and updated the organisation's *Keeping Children Safe Plan*

in accordance with the *Safeguarding Guidance for Organisations* provided by the HSE and the *Guidance for the Reporting of Abuse* provided by the Department of Children and Youth Affairs ;

- (c) be responsible for ensuring the implementation of the *Keeping Children Safe Plan*;
- (d) develop protocols for the reporting of concerns and allegations of child abuse, any such report to include the following information:
 - (i) Name, contact details and position of the person making the report;
 - (ii) Name, age and contact details of the child;
 - (iii) Name, age and contact details of the child's parents or guardians;
 - (iv) Nature of relationship between the reporter and the child;
 - (v) Nature of the information and of the abuse;
 - (vi) Information regarding the alleged abuser;
 - (vii) Source of information;
 - (viii) Whether the parent/guardian knows of the report;
 - (ix) Whether the child knows of the report; Whether the parents or guardians, the child or any of them is in agreement that the report is being made;
 - (x) Whether the alleged perpetrator is aware that the report is being made;
 - (xi) Whether a report has been made previously in relation to the child in question, and if so details in relation to that report;
 - (xii) Whether any other reports have been made by the organisation in relation to any other child or in relation to the alleged perpetrator;
 - (xiii) Any other information relating to the protection and welfare of children;
 - (xiv) Whether the report has been made to the HSE ;
- (e) assist the HSE and participate, when required, in
 - (i) the assessment of risk;
 - (ii) the investigation of concerns or allegations of child abuse being undertaken by the HSE, and
 - (iii) in any related matter including the provision of additional written reports when requested by the HSE ;

- (f) provide reports and information to the HSE, additional to reports of abuse, which are material to the protection and welfare of a particular child or children in general;
- (g) ensure that a copy of the notice prepared in accordance with the *Safeguarding Guidance for Organisations*, which states the name of the Designated Officer and invites any questions, comments or concerns from employees or volunteers, parents and children, as set out in Head 8(1)(e)(vii), is displayed prominently in the organisation, or if the organisation has not got a premises or exclusive use of a premises, the organisation is to take all reasonable steps to publicise the information;
- (h) in accordance with subhead 7(14)(i), (ii) and (iv), appoint 3 persons to the organisation's internal audit committee and implement the recommendations of the internal audit committee made in accordance with subhead 7(14)(iii).

Explanatory note:

Subhead (1) – the purpose of subhead (1) is to require the employer in an organisation which comes under Head 6 to designate the most senior officer, manager or person, or if not designated then the most senior person employed, to be the Designated Officer.

The subhead also provides that the function of the Designated Officer may be performed by an employee or volunteer of the organisation of senior management rank who has authority and competence to undertake the role and who is authorised by the Designated Officer to do so. The reasoning behind the policy to allow for the delegation of the Designated Officer's function is that there may be a more suitable person or persons in the organisation to carry out the day to day functions of the Designated Officer. The intention is also that the Designated Officer remains responsible for the function. It is also provided in the subhead that the Designated Officer has to be working in the organisation e.g. an owner of the organisation who does not work in that organisation cannot be its Designated Officer.

Subhead (2) – the purpose of subhead (2) is to set out the functions of the Designated Officer (or the person authorised to perform his / her function). The functions include: the recording of all concerns or allegations of child abuse brought to the Designated Officers attention in the course of his / her employment (i.e. while s/he is engaged in the activities of the organisation) and the actions taken; the reporting in writing to the HSE of a concern or allegation of child abuse in relation to a child attending or availing of services provided by the organisation or which comes to his / her attention in the course of his / her employment in relation to any child where that concern or allegation meets the criteria set out in the *Guidance for the Reporting of Abuse*. Subhead (2) also requires that where the Designated Officer decides not to report the concern or allegation of child abuse s/he will record the reasons for not reporting at the time of making of that decision and the record will include any action taken as a

result of that concern or allegation brought to his/her attention. Also any action or decision taken in this regard is to be in accordance with the *Guidance for the Reporting of Abuse*.

Subhead (3) – the purpose of subhead (3) is to require the Designated Officer, (or the employee or volunteer so authorised under subhead (1)(b) carrying out the function), to prepare, keep reviewed and updated the organisation's *Keeping Children Safe Plan* (as provided for in Head 7(3)), in accordance with the *Safeguarding Guidance for Organisations*, provided by the HSE, and the *Guidance for the Reporting of Abuse*, provided by the Department of Children and Youth Affairs. The Designated Officer is also to develop protocols for the reporting of concerns and allegations of abuse, to include the following information:

- Name, contact details and position of the person making the report;
- Name, age and contact details of the child;
- Name, age and contact details of the child's parents or guardians;
- Nature of relationship between the reporter and the child;
- Nature of the information and of the abuse;
- Information regarding the alleged abuser;
- Source of information;
- Whether the parent/guardian knows of the report;
- Whether the child knows of the report;
- Whether the parents or guardians, the child or any of them is in agreement that the report is being made;
- Whether the alleged perpetrator is aware that the report is being made;
- Whether a report been made previously in relation to the child in question, and if so details in relation to that report;
- Whether any other reports have been made by the organisation in relation to any other child or in relation to the alleged perpetrator;
- Any other information relating to the protection and welfare of children;
- Whether the report has been made to the HSE.

Subhead (3) also provides for the Designated Officer to assist the HSE on request by participating in the assessment of risk; in the investigation of concerns or allegations of abuse being undertaken by the HSE in any related matter including the provision of additional written reports to the HSE. Also the Designated Office is required to provide reports and information to the HSE, additional to reports of abuse, which are material to the protection and welfare of a particular child or children in general.

Also provided in subhead (3) is for the Designated Office to ensure that a copy of the notice prepared in accordance with the *Safeguarding Guidance for Organisations* and as set out in Head 8(1)(e)(vii), is displayed prominently in the organisation or if the organisation has not got a premises or exclusive use of a premises, the organisation is to take all reasonable steps to publicise the information.

In addition the subhead requires the Designated Officer to, in accordance with subhead 7(14)(i), (ii) and (iv), appoint 3 persons to the organisation's internal audit committee and implement the recommendations of the internal audit committee made in accordance with subhead 7(14)(iii).

10. Organisations' requirements on employees or volunteers

Head 10 provides for the duties of employees or volunteers working in organisations which come under Head 6 in relation to reporting concerns and allegations of child abuse in accordance with the criteria set out in the *Keeping Children Safe Plan*. While employees will be treated in accordance with labour legislation, the Head provides that volunteers who are in breach of the *Keeping Children Safe Plan* may be prohibited from working in the organisation by the Designated Officer, following an enquiry where the volunteer is afforded fair procedures.

Head 10 also provides for concerns or allegations of abuse to be reported directly to the HSE by employees or volunteers rather than to the Designated Officer, if to do so would be in the child's best interest. Head 10 provides for breaches of the *Keeping Children Safe Plan* to be reported by employees and volunteers to the Designated Officer.

Head 10 – Provide that:

(1) An employee or volunteer of an organisation under Head 6 is to report to the Designated Officer concerns or allegations of child abuse which comes to his / her attention in the course of his / her employment (i.e. while engaged in the activities of the organisation).

(2) Notwithstanding subhead (1) where an employee or volunteer believes that it would be in the best interest of the child to report concerns or allegations of child abuse directly to the HSE and without informing the Designated Officer, then s/he may do so under this Bill.

(3) Where an employee or volunteer of an organisation under Head 6 knows or believes that the *Keeping Children Safe Plan* has been breached s/he is to report any such breach to the Designated Officer.

(4) Volunteers in an organisation under Head 6 who fail to report any concerns or allegations of child abuse which come to his or her attention while engaged in the activities of the organisation which require to be reported to the Designated Officer in accordance with subhead (1) or direct to the HSE in accordance with subhead (2) may be prohibited from working as a volunteer in that organisation by the Designated Officer, following an enquiry where the volunteer is afforded fair procedures.

Explanatory note:

Subhead (1) – the purpose of subhead (1) is to require an employee or volunteer of an organisation coming under Head 6 to report to the Designated Officer concerns or allegations of child abuse which come to the employee's or volunteer's attention in the course of his / her employment i.e. while engaged in the activities of the organisation.

Subhead (2) – the purpose of subhead (2) is to allow an employee or volunteer, who believes it would be in the best interest of the child, to report concerns or allegations of child abuse directly to the HSE and without informing the Designated Officer. The policy behind this subhead is to ensure that reports are made, if for example, any such concerns or allegations would in any way be connected to the Designated Officer.

Subhead (3) – the purpose of subhead (3) is to require an employee or volunteer to report to the Designated Officer any breach of the *Keeping Children Safe Plan*.

Subhead (4) – the purpose of subhead (5) is to provide that a volunteer in an organisation (described in Head 6) who fails to report any concerns or allegations of child abuse which come to his or her attention while engaged in the activities of the organisation which require to be reported to the Designated Officer or direct to the HSE may be prohibited from working as a volunteer in that organisation by the Designated Officer, following an enquiry where the volunteer was afforded fair procedures. (Note: employees will be treated in accordance with labour legislation.)

11. Person statutorily required to report child abuse

Head 11 sets out that the Designated Officer and persons/professionals (set out in Schedule 1) working in organisations (coming under Head 6) are to be statutorily required to report concerns or allegations of child abuse to the HSE. The Head sets out that persons/ professionals (as set out in Schedule 1) who work outside of such organisations and are sole practitioners or self-employed are also required to report concerns and allegations of abuse to the HSE. Failure to report is an offence and the liabilities attaching are described at Head 20.

Head 11 – Provide that:

(1) A person who

- (a) is employed or volunteers in an organisation which falls under Head 6, and
- (b) holds a supervisory post and in that post is responsible for the supervision of employees or volunteers who work directly with children, or
- (c) is the Designated Officer,

is to report any concern or allegation of child abuse in accordance with criteria for reporting set out in the *Guidance for the Reporting of Abuse* that comes to his / her attention in the course of his / her employment, in accordance with Head 10 if coming within subhead (1)(a) or (1) (b), or if coming within subhead (1)(c) will report to the HSE , subject to subheads 9(1)(b), 9(2)(c).

(2) A person who is included in Schedule I of this Bill, and who is,

- (i) a sole practitioner, or
- (ii) self employed, or
- (iii) working in an organisation covered by Head 6
- (iv) not working in an organisation covered by Head 6

is required to report any concern or allegation of abuse in accordance with criteria for reporting set out in the *Guidance for the Reporting of Abuse* that comes to his / her attention in the course of his / her employment (i.e. when engaged in work activities) to the HSE if coming under (i), (ii) or (iv) and to the Designated Officer if coming under (iii).

(3) A person described in subhead (1)(c) or subhead (2) who contravenes this Head, without reasonable excuse, is guilty of an offence with liabilities attaching as described in Head 20 unless the person has made a report to An Garda Síochána.

Explanatory note:

Subhead (1) – the purpose of subhead (1) is to provide that employees or volunteers of organisations coming under Head 6 who hold a supervisory post, with responsibility for the supervision of employees or volunteers who work directly with children, are required to report any concern or allegation of child abuse to the Designated Officer in accordance with the *Guidance for the Reporting of Abuse*. The Designated Officer is required to report any concern or allegation of child abuse to the HSE.

Subhead (2) – the purpose of subhead (2) is to provide that persons who are listed in Schedule I to the Bill and who are sole practitioners or self employed or who are part of an organisation covered by Head 6 or not part of such organisation are required to report any concern or allegation of child abuse which comes to their attention in the course of their employment to the HSE in accordance with the *Guidance for the Reporting of Abuse*. A person/professional who is listed in Schedule 1 of the Bill and who is working in an organisation coming under the legislation is required to report to the Designated Officer.

Subhead (3) – the purpose of subhead (3) is to provide that it will be an offence where a Designated Officer or those covered by Subhead (2) fail to comply, without reasonable excuse, with the requirement to report concerns or allegations of child abuse. Persons who have made a report to An Garda Síochána will not be guilty of an offence.

12. Health Service Executive

Head 12 sets out the HSE's responsibilities under the Bill in relation to providing advice and information and promoting awareness and best practice in the area of child welfare and protection for organisations and people working with children and also for the general public. In relation to promoting best practice in organisations, this is largely achieved by the provision of a best practice guidance entitled *Safeguarding Guidance for Organisations*. Head 12 also provides for the HSE to examine organisations when non-compliance with the Bill is brought to its attention.

Head 12 is to be linked with Section 3 of Child Care Act 1991 e.g. HSE to carry out its responsibilities in accordance with both this Bill and the Child Care Act 1991.

Head 12 – Provide that:

(1) The HSE is to:

- (a) promote awareness of, and best practice in, child welfare and protection policy and practices generally;
- (b) publish best practice guidance for organisations coming within Head 6, hereinafter referred to as the *Safeguarding Guidance for Organisations*, in respect of, but not limited to the following:
 - (i) recruitment of employees or volunteers;
 - (ii) vetting of staff;
 - (iii) supervision ratio for certain activities such as showering, dressing, sleeping;
 - (iv) gender mix;
 - (v) use of broadcasting, photographs and media;
 - (vi) reduction and elimination, as far as possible, of the risk of child abuse occurring;
 - (vii) obligations of organisations working with children with disabilities;
 - (viii) obligations of organisations working with children in care;
 - (ix) obligations of organisations which provide services to children living away from their families etc.;
 - (x) obligations of organisations which provide services to children whose parents have addiction or mental health issues;
 - (xi) obligations of organisations which provide services to children who experience domestic violence;
- (c) make available the *Safeguarding Guidance for Organisations* to all organisations notified or deemed to be notified to the HSE under Head 8;
- (d) provide general information to the general public regarding the standards in child protection that organisations are required to meet;

- (e) provide an information and advisory service to assist Designated Officers to carry out their duties and responsibilities under this Bill;
- (f) provide advice to Designated Officers and to persons who are statutorily required to report child abuse which will allow him/her to make a decision as to whether a report of a concern or allegation of abuse requires to be made under this Bill;
- (g) maintain and make publicly available a register of organisations which, in accordance with Head 8, have notified the HSE or which have been deemed notified to the HSE.

(2) The HSE, in accordance with this Bill, is to examine organisations where a breach of this Bill is suspected by the HSE or is brought to its attention;

(3) If following an examination by the HSE under subhead (2) an organisation is found to be non-compliant, the HSE can rely on and invoke its powers under Head 14.

(4) Advice provided by the HSE under subhead (1)(f) is not a defence for not reporting concerns or allegations of abuse which meet criteria set out in the *Guidance for the Reporting of Abuse* provided for in Head 15.

Explanatory note:

Subhead (1) – the purpose of subhead (1) is to provide for the HSE’s responsibilities under the Bill including: promoting awareness of, and best practice in, child welfare and protection policy and practices generally; to publish best practice guidance for organisations coming within Head 6, to be entitled “*Safeguarding Guidance for Organisations*” which will set out the range of issues to be dealt with, including: recruitment of employees or volunteers, vetting of staff, supervision ratio for certain activities (e.g. showering, dressing and sleeping), gender mix, use of broadcasting, photographs and media, reduction and elimination, as far as possible, of the risk of child abuse occurring, obligations of organisations working with children with disabilities, with children in care, or where they provide services to children living away from their families etc., obligations of organisations which provide services to children whose parents have addiction or mental health issues, or provide services to children who experience domestic violence.

In addition the HSE will make the *Safeguarding Guidance for Organisations* available to all organisations notified or deemed to be notified to the HSE under Head 8 and provide information to the general public regarding the standards in child protection that organisations are required to meet. An information and advisory service is also provided for to assist Designated Officers to carry out their duties and responsibilities under this Bill and to provide advice to Designated Officers and persons who are statutorily required to report child abuse to allow them to decide whether to make a report of a concern or allegation of abuse to the HSE. Subhead (1) also provides that the HSE maintain and make publicly available a register of

organisations which, in accordance with Head 8, have notified the HSE or which have been deemed notified to the HSE.

Subhead (2) – the purpose of subhead (2) is to provide that the HSE has the power to examine organisations where a breach of this Bill is suspected or is brought to its attention.

Subhead (3) – the purpose of subhead (3) is to indicate that there are actions under Head 14 that can be taken by the HSE where the HSE finds, following an examination of the organisation’s compliance with the Bill, that the organisation is in breach of the Bill.

Subhead (4) – the purpose of subhead (4) is to provide that the HSE’s advice to Designated Officers and other persons statutorily required to report child abuse so as to equip them to decide whether to make a report of a concern or allegation of abuse is not to be used as a defence for not reporting such concerns or allegations if that report should have been made in accordance with the standard/threshold set out in the HSE’s *Guidance for the Reporting of Abuse*. The reasoning behind this subhead is to ensure that the advice given by the HSE is not used to facilitate non-reporting where a report should be made. The decision and responsibility to report rests with the Designated Officer or other person statutorily required to make the report.

13. Monitoring and dealing with reports (by HSE).

Head 13 sets out the responsibilities of the HSE in relation to monitoring and dealing with reports of concerns or allegations of abuse it receives. All such reports are to be dealt with under the Child Care Act 1991 which provides for the care and protection of children.

Head 13 – Provide that:

(1) The HSE is to:

- (a) appoint a person or persons who will be responsible for:
 - (i) managing the administration of the child protection services in the HSE pertaining to this Bill;
 - (ii) the implementation of the provisions of this Bill pertaining to the role of the HSE as set out in this Bill;
 - (iii) taking all necessary steps to ensure all reports of concerns and allegations of abuse received under subhead (b) are dealt with in accordance with Section 3 of the Child Care Act 1991

and, in that regard is to

- (b) put in place a system to facilitate reporting of concerns or allegations of abuse under this Bill;
- (c) have, in respect of any organisation under this Bill, the power in respect of that organisation:
 - (i) to seek information on its activities, and
 - (ii) if it is an organisation which comes within Head 6 to issue a notice to the effect that they are required to notify the HSE in accordance with Head 8, if it has so failed to do;

Explanatory note:

Subhead (1) – the purpose of subhead (1) is to provide for the HSE appoint a person or persons to be responsible for managing the administration of the child protection services in the HSE which relate to this Bill. The person(s) appointed by the HSE are also to implement the provisions of the Bill which relate to the role of the HSE and are to take all necessary steps to ensure all reports of concerns and allegations of abuse which the HSE receives are dealt with in accordance with Section 3 of the Child Care Act 1991. Subhead (1) is also to provide that the person(s) appointed by the HSE are required to put in place a system to facilitate reporting of concerns and allegations of abuse. This Head is also to provide, in respect of any organisation

covered by the Bill, that the HSE will have the power to seek information on its activities and if it is an organisation which comes under Head 6 to issue a notice to the effect that they are required to notify the HSE in accordance with Head 8, if it has not done so.

14. Written Directions, Improvement Notices and Prohibitions

Head 14 provides for the HSE to have the power to examine whether an organisation is complying with the provisions of the Bill and to determine whether there is, or may be, a failure on the part of the organisation to implement the *Safeguarding Guidance for Organisations*, the *Keeping Children Safe Plan* and the *Guidance for the Reporting of Abuse*. Where the HSE believes an organisation is not in compliance, it may issue a written direction to the organisation seeking it to provide an Improvement Plan.

Where the organisation does not submit an Improvement Plan, the HSE may issue a written Improvement Notice to the organisation's Designated Officer who may appeal the Notice to the District Court.

The Head also provides that where the HSE believes there is, or may be, a serious risk to the safety or welfare of a child in an organisation, it may serve a Prohibition Notice on the Designated Officer, taking immediate effect and which is to seek to have the matter therein remedied within a specified time period. The Prohibition Notice may be appealed to the District Court and in an appeal a request may be heard to have the Notice suspended

Head 14 – Provide that:

Written Directions

(1) The HSE will, in respect of any organisation covered by this Bill, have the power in respect of that organisation:

- (i) to examine and inquire into the services and practices of that organisation to establish whether that organisation is in compliance with the provisions of the Bill; and
- (ii) to determine whether there is occurring, or is likely to occur, a failure to implement the *Safeguarding Guidance for Organisations*, the *Keeping Children Safe Plan* and the *Guidance for the Reporting of Abuse* which is, or is likely to involve, a risk to the safety or welfare of a child.

(2) If following an exercise of its power under (1) the HSE is of the opinion that the organisation is in contravention of the provisions of this Bill the HSE may give a written direction to the Designated Officer of that organisation requiring h/her to provide an Improvement Plan.

(3) A direction given under subhead (2) will—

- (a) identify the activity which gives rise to contravention of the Bill,
- (b) require the submission to the HSE , within a period to be specified (depending on the circumstances)of an Improvement Plan specifying the remedial action proposed to be taken,

- (c) require the Designated Officer to implement the Plan, and
- (d) include any other requirements that the HSE considers necessary.

(4) Within one month of receipt of an Improvement Plan submitted under subhead (2), the HSE, by written notice to the Designated Officer,

- (a) is to confirm whether or not he or she is satisfied that the plan is adequate, or
- (b) may direct that the plan be revised as specified in the notice and resubmitted to the HSE within a period specified in the notice.

Improvement Notice

(5) If the Designated Officer fails to submit an Improvement Plan or a revised Plan under 4(b) or fails to implement the Plan to the satisfaction of the HSE within the specified period, the HSE may serve a written Improvement Notice on the Designated Officer.

(6) If the HSE is of the opinion that the Designated Officer /Organisation:

- (a) is contravening or has contravened any of the relevant statutory provisions, or
- (b) has failed to comply with a direction under subhead (2) to submit an Improvement Plan or, in the case of a notice under subhead (4)(b), a revised Improvement Plan, or has failed to implement the Improvement Plan or revised Improvement Plan,

may serve a written Improvement Notice on the Designated Officer.

(7) An Improvement Notice will—

- (a) state that the HSE is of the opinion referred to in subhead (2),
- (b) state the reasons for that opinion,
- (c) identify the relevant statutory provision in respect of which that opinion is held,
- (d) specify the reasons why he or she is of that opinion,
- (e) direct the Designated Officer to remedy the contravention or the matters occasioning that Improvement Notice by a date specified in the Improvement Notice, that will not be earlier than the end of the period within which an appeal may be made under subhead (11),
- (f) include information regarding the making of an appeal under subsection (11),

- (g) include any other requirement that the HSE considers appropriate, and
- (h) be signed and dated by the HSE.

(8) An Improvement Notice may include directions as to the measures to be taken to remedy any contravention or matter to which the Improvement Notice relates or to otherwise comply with the notice.

(9) A Designated Officer on whom an Improvement Notice has been served who is of the opinion that the Improvement Notice has been complied with will confirm in writing to the HSE that the matters referred to in the Improvement Notice have been so remedied.

(10) Where a Designated Officer on whom an Improvement Notice has been served confirms in writing to the HSE in accordance with subhead (9) that the matters referred to in the Improvement Notice have been remedied, the HSE will, on being satisfied that the matters have been so remedied, within one month of receipt of such confirmation, give written notice to the Designated Officer of compliance with the Improvement Notice.

(11) A person aggrieved by an Improvement Notice may, within 14 days beginning on the day on which the Improvement Notice is served on him or her, appeal in the prescribed manner against the Improvement Notice to a judge of the District Court in the district court district in which the Improvement Notice was served in the prescribed manner and, in determining the appeal the judge may, if he or she is satisfied that it is reasonable to do so, confirm, vary or cancel the Improvement Notice.

(12) A person who appeals under subsection (11) will at the same time notify the HSE of the appeal and the grounds for the appeal and the HSE will be entitled to appear, be heard and adduce evidence on the hearing of the appeal.

(13) Where an appeal under subsection (11) is taken, and the Improvement Notice is not cancelled, the Improvement Notice will take effect on the later of—

- (a) the day next following the day on which the Improvement Notice is confirmed on appeal or the appeal is withdrawn, or
- (b) the day specified in the Improvement Notice.

(14) Where there is no appeal under subsection (11), the Improvement Notice will take effect on the later of

- (a) the end of the period for making an appeal, or
- (b) the day specified in the Improvement Notice.

(15) The HSE may

- (a) withdraw an Improvement Notice at any time, or
- (b) where no appeal is made or pending under subhead(11), extend the period specified under subsection (7)(e).

(16) Any such Improvement Notice issued under (6) may direct the measures the Designated Officer should take to remedy the contraventions identified by the HSE.

Prohibition Notice

(17) The HSE will, in respect of any organisation covered by this Bill have the power in respect of that organisation, if following an exercise of its power under (1)(i) or (ii), or for any other reason, is of the opinion that there is occurring or is likely to occur a serious risk to the safety or welfare of a child, serve a Prohibition Notice on the Designated Officer of that organisation.

(18) A Prohibition Notice will—

- (a) state that the HSE is of the opinion referred to in subsection (17),
- (b) state the reasons for that opinion,
- (c) specify the action or inaction in respect of which that opinion is held,
- (d) where in his or her opinion the action or inaction involves a contravention, or likely contravention, of any of the relevant statutory provisions, specify the relevant statutory provision,
- (e) prohibit the carrying on of the action or remedy the inaction concerned until the matters which give rise or are likely to give rise to the risk are remedied,
- (f) prohibit the carrying on of part or all of the services provided to children;
- (g) be signed and dated by the HSE.

(19) A Prohibition Notice may include directions as to the measures to be taken to remedy any contravention or matter to which the notice relates or to otherwise comply with the Prohibition Notice.

(20) A Prohibition Notice will take effect—

- (a) immediately the Prohibition Notice is received by the Designated Officer on whom it is served, or
- (b) where an appeal is taken, on the later of the day next following the day on which the Prohibition Notice is confirmed on appeal or the appeal is withdrawn, or the day specified in the Prohibition Notice.

(21) The bringing of an appeal against a Prohibition Notice which is to take effect in accordance with subhead (20) will not have the effect of suspending the operation of the Prohibition Notice but the appellant may apply to the court to have the operation of the Prohibition Notice suspended until the appeal is disposed of and, on such application, the court may, if it thinks proper to do so, direct that the operation of the Prohibition Notice be suspended until the appeal is disposed of.

(22) A Designated Officer aggrieved by a Prohibition Notice may, within 7 days beginning on the day on which the Prohibition Notice is served on him or her, appeal in the prescribed manner against the Prohibition Notice to a judge of the District Court in the district court district in which the Prohibition Notice was served and in determining the appeal the judge may, if he or she is satisfied that it is reasonable to do so, confirm, vary or cancel the Prohibition Notice.

(23) Where, on the hearing of an appeal under this section, a Prohibition Notice is confirmed, notwithstanding subsection (20), the judge by whom the appeal is heard may, on the application of the appellant, suspend the operation of the Prohibition Notice for such period as in the circumstances of the case the judge considers appropriate.

(24) A Designated Officer who—

- (a) appeals under subsection (22), or
- (b) applies for a direction suspending the application of a Prohibition Notice under subsection (21),

will at the same time notify the HSE of the appeal or the application and the grounds for the appeal or the application and the HSE will be entitled to appear, be heard and adduce evidence on the hearing of the appeal or the application.

(25) A Designated Officer on whom a Prohibition Notice has been served who is of the opinion that the matters referred to in the Prohibition Notice have been remedied by the date specified in the Prohibition Notice will confirm in writing to the HSE that those matters have been so remedied.

(26) Where a Designated Officer on whom a Prohibition Notice has been served confirms in writing to the HSE in accordance with subsection (25) that the matters referred to in the Prohibition Notice have been remedied, the HSE will, on being satisfied that the matters have been so remedied, within one month of receipt of such confirmation, give written notice to the Designated Officer concerned, of compliance with the Prohibition Notice.

(27) The HSE may at any time withdraw a Prohibition Notice by written notice to the person on whom it was served where (a) the HSE is satisfied that the activity to which the Prohibition Notice relates no longer involves a serious risk to any child, or (b) the HSE is satisfied that the Prohibition Notice was issued in error or is incorrect in some material respect.

(28) The withdrawal of a Prohibition Notice under subsection (26) has effect when the notice of withdrawal is given to the Designated Officer, on whom the Prohibition Notice was served.

(29) The withdrawal of a notice under this section does not prevent the service of any other Prohibition Notice.

(30) Where an Improvement Notice is served under subhead (5) or a Prohibition Notice is served under subhead (17), the Designated Officer will display it, or a copy of it, in a prominent place in the organisation and bring it to the attention of any person affected in any way by the Improvement Notice or the Prohibition Notice, as the case may be.

Explanatory note:

Written Directions

Subhead (1) – the purpose of subhead (1) is to allow the HSE to examine and determine whether organisations are compliant with the provisions of the Bill and that they are operating in accordance with the *Safeguarding Guidance for Organisations*, and the *Guidance for the Reporting of Abuse* and have in place and are implementing the *Keeping Children Safe Plan*.

Subhead (2) – the purpose of subhead (2) is to allow the HSE to issue a written direction to an organisation’s Designated Officer to provide an Improvement Plan where it believes an organisation is in contravention of subhead (1).

Subhead (3) – the purpose of subhead (3) is set out the content of a direction issued under subhead (2).

Subhead (4) – the purpose of subhead (4) is to require the HSE, within a month of receiving an Improvement Plan, to advise the Designated Officer if it is adequate or should be revised.

Improvement Notice

Subhead (5) – the purpose of subhead (5) is to provide for the HSE to issue an Improvement Notice where a Designated Officer does not provide an Improvement Plan requested under subhead (2).

Subhead (6) – the purpose of subhead (6) is to provide that where the HSE is of the opinion that the Designated Officer /Organisation is contravening or has contravened any of the relevant statutory provisions, or has failed to comply with a direction under subhead (2) to submit an Improvement Plan or, in the case of a notice under subhead (4)(b), a revised Improvement Plan, or has failed to implement the Improvement Plan or revised Improvement Plan, it may serve a written Improvement Notice on the Designated Officer.

Subhead (7) – the purpose of subhead (7) is to set out the content and directions in an Improvement Notice.

Subhead (8) – the purpose of subhead (8) is to provide for directions in an Improvement Notice as to measures to be taken.

Subhead (9) – the purpose of subhead (9) is to provide for the Designated Officer to confirm an Improvement Notice has been complied with.

Subhead (10) – the purpose of subhead (10) is to provide that if a Designated Officer confirms to the HSE that an Improvement Notice has been complied with, the HSE will confirm it is satisfied that the matters have been remedied and will confirm samee to the Designated Officer within a month.

Subhead (11) – the purpose of subhead (11) is to provide that an appeal to an Improvement Notice may be made to a judge of the District Court.

Subhead (12) – the purpose of subhead (12) is to provide that a person making an appeal under subhead (11) is required to notify the HSE of the appeal and its grounds.

Subhead (13) – the purpose of subhead (13) is to provide for the date on which an Improvement Notice, which has been appealed and is not cancelled, takes effect.

Subhead (14) – the purpose of subhead (14) is to provide for the date on which an Improvement Notice, which has not been appealed, takes effect.

Subhead (15) – the purpose of subhead (15) is to provide for the HSE to withdraw or to extend the period of an Improvement Notice.

Subhead (16) – the purpose of subhead (16) is to provide that an Improvement Notice may direct the measures to be taken to remedy the contraventions.

Prohibition Notice

Subhead (17) – the purpose of subhead (17) is to provide that the HSE may issue a Prohibition Notice on a Designated Officer of an organisation where following the exercise of its powers under subhead (1) or for any reason, the HSE believes there is a serious risk to the safety or welfare of a child in that organisation.

Subhead (18) – the purpose of subhead (18) is to provide for the content of a Prohibition Notice which will include providing for the prohibition of specified activities which are of concern to the HSE e.g. action or inaction which would create a serious risk to the protection or welfare of a child.

Subhead (19) – the purpose of subhead (19) is to provide that a Prohibition Notice may include directions on the measures to be taken to remedy any contravention or matter to which the Prohibition Notice relates.

Subhead (20) – the purpose of subhead (20) is to provide for when a Prohibition Notice takes effect.

Subhead (21) – the purpose of subhead (21) is to provide for the operation of a Prohibition Notice where an appeal against it is made including allowing the appellant

to apply to the court to have the operation of the Prohibition notice suspended until the appeal is decided.

Subhead (22) – the purpose of subhead (22) is to provide for appeals, to a judge of the District Court, against a Prohibition Notice.

Subhead (23) – the purpose of subhead (23) is to provide that where a judge on the hearing of an appeal confirms a Prohibition Notice, the judge may on the application of the appellant suspend the operation of the Prohibition Notice.

Subhead (24) – the purpose of subhead (24) is to provide that the Designated Officer makes an application to appeal or applies to suspend the operation of a Prohibition Notice will notify the HSE of these applications.

Subhead (25) – the purpose of subhead (25) is to provide that the person on whom the Prohibition Notice is served will confirm in writing to the HSE where the matters raised have been remedied by the specified date in the Prohibition Notice.

Subhead (26) – the purpose of subhead (26) is to provide that the HSE, within a month of receipt of a confirmation under subhead (25) and being satisfied that the issues raised in the Prohibition Notice have been remedied will give written notice of compliance with the Prohibition Notice.

Subhead (27) – the purpose of subhead (27) is to provide that the HSE may withdraw a Prohibition Notice where it is satisfied that the issues raised in the Prohibition Notice no longer involve a serious risk to any child or where the HSE is satisfied that the Prohibition Notice was issued in error or was incorrect in some way.

Subhead (28) – the purpose of subhead (28) is to provide that where the HSE withdraws a Prohibition Notice in accordance with subhead (27), it takes effect when given to the Designated Officer on whom the Prohibition Notice was served.

Subhead (29) – the purpose of subhead (29) is to provide that where the HSE withdraws a Prohibition Notice in accordance with subhead (27), it does not prevent the service of a Prohibition Notice thereafter.

Subhead (30) – the purpose of subhead (30) is to provide that where an Improvement Notice or a Prohibition Notice is served, the Designated Officer is required to display it or a copy of it, in a prominent place in the organisation and to bring it to the attention of any person who is affected by it in any way.

15. *Guidance for the Reporting of Abuse* – Department of Children and Youth Affairs

Head 15 provides for the Department of Children and Youth Affairs to publish guidance entitled “*Guidance for the Reporting of Abuse*”. The guidance will provide advice on all aspects of reporting of concerns and allegations of child abuse by persons statutorily required to report child abuse and the guidance will be provided to all organisations which notify or are deemed notified to the HSE and be published via the Department’s internet service and provided to professional groups etc.

Head 15 – Provide that:

(1) The Department of Children and Youth Affairs is to publish guidance for organisations, coming under Head 6, and persons statutorily required to report child abuse, coming under Head 11, in relation to all aspects of reporting of concerns or allegations of child abuse, to be known as the *Guidance for the Reporting of Abuse*.

(2) The *Guidance for the Reporting of Abuse* is to be reviewed annually and in accordance with developments in child protection.

(3) The *Guidance for the Reporting of Abuse* is to be made available to all organisations notified or deemed to be notified to the HSE under Head 8, to professional groups under Schedule I and also via the Department’s internet i.e. the *Guidance* will have wide circulation.

Explanatory note:

This Head is to provide for the *Guidance for the Reporting of Abuse* to be developed and made available in relation to all aspects of reporting concerns and allegations of child abuse.

Subhead (1) – the purpose of subhead (1) is to provide for the Department of Children and Youth Affairs to publish guidance to be used by organisations and by persons statutorily required to report child abuse. The *Guidance* is to deal with all aspects of reporting concerns or allegations of child abuse.

Subhead (2) – the purpose of subhead (2) is to provide that the *Guidance for the Reporting of Abuse* is to be reviewed in accordance with developments in child protection i.e. that the Department of Children and Youth Affairs which keeps abreast of best practice is to reflect same in the *Guidance for the Reporting of Abuse*.

Subhead (3) – the purpose of subhead (3) is to provide that the *Guidance for the Reporting of Abuse* is to be made available to all organisations notified or deemed to be notified to the HSE, professional groups under Schedule I, and to the general public via the Department’s internet.

16. Reporting Criteria

Head 16 provides that a Designated Officer, an employee or volunteer (in circumstances set out in Head 10), or a person statutorily required to report child abuse is to make a report in relation to a concern or allegation of child abuse to the HSE. The Head also provides for reports to be made by An Garda Síochána to the HSE in respect of relevant reports it receives in respect of child abuse or concerns for the safety of a child.

Head 16 – Provide that:

(1) Where a Designated Officer described in Head 9 or an employee or volunteer described in Head 10 (2) or a person statutorily required to report child abuse, described in Head 11 has a concern or an allegation about the welfare and protection of a child s/he will report, as soon as practicable, that concern or allegation to the HSE.

(2) Where An Garda Síochána receives a report of child abuse and has concerns for the well-being of a child, An Garda Síochána will disclose, as soon as practicable, those concerns to the HSE.

Explanatory note:

Subhead (1) – the purpose of subhead (1) is to provide that where a Designated Officer, an employee or volunteer or a person statutorily charged with reporting child abuse has a concern or an allegation about the welfare and protection of a child s/he will report, as soon as practicable, that concern or allegation to the HSE;

Subhead (2) – the purpose of subhead (2) is to provide that where An Garda Síochána receives a report that of child abuse, An Garda Síochána will disclose to the HSE any concerns it has for the well-being of the child involved.

PART 3

CO-OPERATION AND INFORMATION SHARING

17. HSE and An Garda Síochána requirement to co-operate

Head 17 provides for the HSE to inform a Designated Officer or any person statutorily charged with reporting child abuse, who has made a report of a concern or allegation of child abuse to the HSE as to whether the report is being referred for attention by the HSE to An Garda Síochána .

The Head also provides that a Standard Notification Form is to be completed by the HSE or An Garda Síochána where they are notifying each other of a report of a concern or allegation of child abuse which has been made to either one of them. Head 17 also provides that the HSE and An Garda Síochána will co-operate to ensure that the best interests of the child are upheld. Also, Head 17 provides that the HSE and An Garda Síochána will agree protocols and procedures for the implementation of this Head.

Head 17 – Provide that:

(1) For the purposes of the HSE and An Garda Síochána in cases where they have notified one another of a report or a concern or allegation of child abuse, a Standard Notification Form is to be completed by and forwarded to An Garda Síochána or the HSE, as appropriate.

(2) In relation to any report made under subhead (1) and (2), An Garda Síochána and the HSE will co-operate to ensure the welfare and protection of the child is the first and paramount consideration.

(3) An Garda Síochána and the HSE will agree protocols and procedures for the implementation of this Head.

Explanatory note:

This Head is to provide for co-operation between the HSE and An Garda Síochána.

Subhead (1) – the purpose of subhead (1) is to provide for a Standard Notification Form to be completed by the HSE where it is notifying An Garda Síochána of a report of a concern or allegation of child abuse which has been made to the HSE or vice versa.

Subhead (2) – the purpose of subhead (2) is to provide for the HSE and An Garda Síochána, where a report of a concern or allegation of child abuse is made, to co-operate to ensure, as far as possible, the best interests of the child are upheld.

Subhead (3) – the purpose of subhead (3) is to provide for the HSE and An Garda Síochána to agree protocols and procedures for the implementation of this Head.

18. Data Protection Act

Head 18 provides for the Data Protection Acts 1988 and 2003 to apply in relation to data collected, processed, kept and used in accordance with this Bill but the Acts are not to prevent the exchange of information under this Bill which is exchanged for the purpose of protecting a child.

Head 18 – Provide that:

1. The Data Protection Acts 1988 and 2003 apply in relation to data collected, processed, kept and used in accordance with this Bill.
2. Notwithstanding subhead (1) nothing in the Data Protection Acts 1988 and 2003 will prevent the exchange of information under this Bill which is exchanged for the purpose of protecting a child.

Explanatory note:

Subhead (1) – the purpose of subhead (1) is to provide that the Data Protection Acts 1988 and 2003 apply in relation to data collected, processed, kept and used in accordance with this Bill.

Subhead (2) – the purpose of subhead (2) is to provide that nothing in the Data Protection Acts 1988 and 2003 is to prevent the exchange of information under this Bill which is exchanged for the purpose of protecting a child.

PART 4

CHILDREN FIRST IMPLEMENTATION PLANS

19. Implementation of this Bill by relevant Government Departments and the agencies under the aegis of those Departments.

Head 19 provides that named Ministers of the Government are to provide, at the request of the Minister for Children and Youth Affairs, information in relation to the implementation of the Bill by their Departments.

Head 19 – Provide that:

(1) Each of the following Ministers of the Government

- (a) Minister for Health,
- (b) Minister for Education and Skills,
- (c) Minister for Justice , Equality,
- (d) Minister for Arts, Heritage and Gaeltacht Affairs,
- (e) Minister for the Environment , Community and Local Government,
- (f) Minister for Social Protection,
- (g) Minister for Transport , Tourism and Sport

is, at the request of the Minister, to provide to her information in relation to the implementation of this Bill by their Departments and in relation to the agencies under the aegis of their Departments (that are organisations under Head 6) to include, in particular, statistical information and other records as to proper planning in relation to this Bill.

Explanatory note:

Subhead (1) – the purpose of subhead (1) is to provide that the Minister for Health, the Minister for Education and Skills, the Minister for Justice and Equality, the Minister for Arts, Heritage and Gaeltacht Affairs, the Minister for the Environment , Community and Local Government, the Minister for Social Protection and the Minister for Transport, Tourism and Sport are to provide to the Minister for Children and Youth Affairs information in relation to the implementation of this Bill by their Departments and in relation to the agencies which are under the aegis of their Departments. The information to be provided is to include, in particular, statistical information and other records as to proper planning in relation to this Bill. The policy intent is to ensure that the Minister for Children and Youth Affairs can ensure that the relevant Government Departments have measures in place for the implementation of the Bill both in their own Departments and in agencies under their remit which are “organisations” for the purposes of this Bill. This is to facilitate any need arising for action at Departmental or cross Government level.

PART 5
OFFENCES

20. Offences

Head 20 provides for offences under the Bill.

Head 20 – Provide that:

- (1) A person guilty of an offence under Head 11(3) will be liable:
- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or
 - (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years or both.

Explanatory note:

Subhead (1) – the purpose of subhead (1) is to provide that a person who is found guilty of an offence under Head 11(3) will be liable on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years or both.

SCHEDULE I

PROFESSIONALS STATUTORILY CHARGED WITH REPORTING CHILD ABUSE

- Registered nurse with An Bord Altranais
- Registered doctor with the Medical Council
- Registered Social Worker with the Health and Social Care Regulatory Body
- Member of An Garda Síochána
- Member of the Teaching Council
- Probation officer
- Youth worker providing services in accordance with the Youth Work Service Act
- Addiction counsellor
- Foster Carer
- Social Care Worker
- Pre-school or crèche staff with a Fetac Level 7 Award
- Psychologist
- Psychotherapist and counsellor (definitions)
- Speech and language therapist
- Occupational therapist
- Court appointed official and Guardian *ad Litem*
- Pastoral and administrative member of churches and other religious communities

SCHEDULE II

ORGANISATIONS DEEMED NOTIFIED TO THE HSE UNDER HEAD 8(3)

Organisations that are either registered or part of statutory service are deemed to be notified do not need to notify to the HSE

- Schools registered with the Department of Education and Skills
- Gaelteachts including accommodation, education and activities
- Pre-schools and crèches registered with the Early Childhood Care and Education (ECCE) Scheme
- HSE Child and Family Services
- HSE Primary Care Services
- HSE Funded Hospitals
- HSE Child and Mental Health Services
- HSE disability, day, respite and residential services
- All organisations funded by the HSE under Health Act 2004 S 38, 39 to provide services under the heading as set out above
- Garda Síochána services
- Department of Justice and Law Reform's Crime diversion programmes
- Children Detention Schools
- Private organisation providing services for children in State care
- Local Authorities in respect of their educational, cultural, sports and recreation facilities

Organisations that are non-statutory and may be in receipt of state funding in part or occasionally

- Community organisations providing support and activities to children
- National groups such as Scouts, Guides
- Sports organisations, including those registered with the National Sports Council
- Cultural organisations including those based on Irish language and culture

Organisations that are non-statutory and not in receipt of State funding

- Private language educational establishments, day and residential (for children learning English or a foreign language)
- Private 'grind' educational establishments not registered with the Department of Education and Skills
- Private hospital and health facilities
- Day and Residential adventure/sports/cultural/holiday camps
- Gyms/ crèches in hotels
- Churches, religious orders and registered charities providing educational pastoral and administrative services for children
- Private organisations providing leisure, cultural and artistic activities and education