



Transgender
Equality
Network
Ireland

Safeguarding Vulnerable Adults Policy

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Introduction

Transgender Equality Network Ireland (TENI) is fully committed to safeguarding the well-being of adults by protecting them from physical, sexual, psychological, financial, discriminatory abuse and neglect. TENI accepts that in all matters concerning vulnerable adults, the welfare and protection of such adults is paramount.

TENI recognises the intersectionality between the trans community and other communities and that many of the trans community, their families and supporters may be classed as vulnerable adults. These older and disabled community members are an integral part to TENI's work and so it is important that we are fully compliant with all relevant safeguarding guidance and legislation.

Purpose

The purpose of this policy is to promote best practices in the safeguarding of vulnerable adults within TENI, and to set out a procedural framework to ensure that:

1. TENI protects vulnerable adults in its care or supervision.
2. All TENI staff and volunteers are equipped to make informed and confident responses to specific safeguarding issues.
3. TENI management is equipped to make appropriate decisions in the event of specific safeguarding concerns arising.

This policy aims to:

1. Prevent abuse where possible by setting in place and implementing systems and procedures to protect vulnerable adults through best recruitment practices, staff induction and training, creating an open and aware culture, assigning clear management responsibilities, and involving vulnerable adults appropriately in their own protection.
2. In the event of disclosure or discovery of abuse; setting in place clear guidelines and procedures for reporting and reacting, dealing promptly and properly with incidents, supporting victims, and holding perpetrators to account.
3. Creating a safe organisation, an environment where safeguarding issues are discussed openly and are understood across the organisation, where concerns can be brought to the attention of the relevant people, that improve awareness and implementation of safeguarding policies and practices, and which creates a framework to deal openly, consistently, and fairly with allegations concerning both direct and indirect abuse.

All TENI staff and volunteers are bound by the policy. All visitors to TENI activities as well as all TENI staff are required to uphold the policy. All partner organisations are expected to comply with minimum standards defined by the policy.

Scope

This policy applies to:

1. All TENI-led events and activities, TENI's headquarters, and any other location wherein staff are physically operating on behalf of TENI, (hereinafter collectively referred to as **TENI premises**).
2. All TENI staff regardless of the course of their duties.

3. All other external parties (e.g., agents, contractors' organizations, community groups) operating within a TENI location and on behalf of TENI will be required to adhere to this policy.

Relevant TENI activities

TENI receives and responds to queries from transgender community members, from families, from professionals, and from others. TENI provides information, signposting and resources where relevant to those seeking information. TENI aims to provide information that is accurate, reliable, accessible, and verifiable.

TENI facilitates events for the transgender community and allies, both in person and online. Attendees for events register in advance either through a ticket registration website or by email with the relevant TENI staff member. Registration details are stored securely and deleted after the minimum required time, in line with GDPR. Full details (i.e. location or meeting link) are only provided after registration. Both online and in person events are always facilitated by TENI staff, TENI volunteers, or have TENI staff/volunteers present if the event has an external facilitator. TENI staff and volunteers are trained in responding to and reporting disclosures of abuse, or reasonable grounds to suspect abuse. All TENI community events are once-off events, and there is no opportunity for TENI staff to form continuous or ongoing relationships with vulnerable community members.

Policy Statement

1. TENI recognize that safeguarding and welfare considerations permeate many aspects of our services and therefore must be reflected (where applicable) in its policies, procedures, practices, and activities. In adhering to the following key principles of best practice in child protection and welfare, all individuals employed by or operating on behalf of TENI will:
 - Recognize that the protection and welfare of vulnerable adults is of paramount importance, regardless of all other considerations.
 - Fully comply with statutory obligations under relevant legislation.
 - Fully cooperate with the relevant statutory authorities in relation to vulnerable adult safeguarding, protection and welfare matters.
 - Adopt safe practices to minimise the possibility of harm or accidents happening to vulnerable adults and protect workers from the necessity to take unnecessary risks that may leave them open to accusations of abuse or neglect.
 - Where appropriate, develop a practice of openness with carers.
 - Fully respect confidentiality requirements in dealing with safeguarding matters.
2. All TENI premises shall adopt and implement fully, and without modification, this policy. Events held in external venues may be subject to those venues' safeguarding policies, which will also apply to TENI activities taking place there.
3. In relation to the reporting of safeguarding concerns to authorities, all TENI staff are required to adhere to the procedures set out in this policy.
 - a. Please note: All safeguarding concerns must be channelled through the TENI Designated Protection Officer (**DPO**), who is the person responsible for making reports to An Garda Síochána and other external agencies. If the concern relates to the TENI DPO the concern must be reported to the TENI Executive Director.

4. This policy, and related Child Protection Policy and Child Safeguarding Statement, shall be published on the TENI website.

Roles and Responsibilities

Specific Responsibilities of TENI Employees

All TENI staff will be responsible to:

1. Fully comply with this policy in its entirety.
2. Accept, take, and escalate complaints or concerns from any party who engages you.
3. Understand and follow the reporting process on how to accept a concern.
4. Engage the DPO, or Executive Director, or board as required.
5. Ensure full privacy and confidentiality for all parties.

Specific Responsibilities of TENI's DPO

The DPO will be responsible to:

1. The DPO will first ensure the vulnerable person is protected / supported (if applicable).
2. The DPO will act as a resource person for any individual who has a safeguarding concern.
3. The DPO will work and liaise closely with TENI's CEO (and board) on any concerns.
4. The DPO shall ensure that they are knowledgeable about safeguarding and will undertake any training considered necessary to keep themselves updated on new developments.
5. The DPO shall perform risk assessments on various TENI programs that interact directly with vulnerable adults.
6. The name and contact details of the DPO will be displayed on TENI's website.

Specific Responsibilities of TENI

TENI will be responsible to:

1. Take swift and appropriate action, including legal action when required, against employees and related personnel who commit physical, emotional, sexual abuse, neglect, or exploitation of a vulnerable adult.
2. Take swift and appropriate action against those who were aware of such abuse/exploitation but did not report it.
3. Provide information, instructions, and training in respect of the identification of the occurrence of harm and will implement the following:
 - a. Refer all employees to this policy.
 - b. Encourage personnel to avail of relevant training.
 - c. Encourage management to avail of relevant training.
 - d. Ensure management maintains records of all personnel training.
4. Ensure compliance with the legal requirements in relation to vetting of all employees who have or may have unsupervised access to children or vulnerable adults.

Under the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012-2016 it is compulsory for employers to obtain vetting disclosures in relation to anyone who is carrying out relevant work with children or vulnerable adults. The Acts create offences and penalties

for persons who fail to comply with their provisions. Statutory obligations on employers in relation to Garda vetting requirements for persons working with children and vulnerable adults are set out in the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012–2016.

Additionally, the use of probationary periods is to be used to further ensure staff suitability once a post is occupied.

5. Ensure confidentiality for all parties involved in a complaint.

TENI is committed to the privacy of both the alleged victim and alleged perpetrator of the complaint. The identities of the individuals must not be disclosed. Professionalism and sensitivity of response are paramount. The only communication that may ever be made externally in these cases by TENI staff are to local authorities, parents, or potentially to medical authorities in rare cases.

6. Use appropriate interviewing practices with complainants and witnesses. These interviewing practices are detailed in the Reporting Process section.
7. Take appropriate action to the best of its capacity to protect persons from retaliation when allegations of vulnerable adult exploitation and abuse are made in good faith.
8. Support survivors of exploitation and abuse through the complaints process, to the best of our ability.
9. Adhere to best practices when engaging in hiring, where applicable:
 - a. When we are designing the job, analyse the role and think about the issues of safeguarding and risk in that job:
 - i. What contact with vulnerable adults will the job involve?
 - ii. Will the employee have unsupervised access to vulnerable adults, or hold a position of trust?
 - iii. What other sort of contact may the person have with vulnerable adults (eg, via email, phone, letter, internet)?
 - b. Develop clear job descriptions, terms of reference/role briefs for all posts including where short-term contracts, consultants are being recruited.
 - c. Make sure that the selection-criteria outlines the relevant experience needed if the post involves direct work with vulnerable adults.
 - d. Make sure that the commitment to keeping vulnerable adults safe is included in details of any post sent to prospective job candidates.
 - e. Develop application forms that ask for consent to complete Garda vetting for relevant roles.
 - f. Ask for documentation to confirm identity and proof of relevant qualifications.
 - g. Make sure we have a well-planned interview process – make sure the interviewers have the relevant experience and knowledge about safeguarding and best practice.
 - h. Include some specific questions in the interview that draw out people's attitudes and values in relation to the protection of vulnerable adults.

- i. Take up to three references including some from previous employees or others who have knowledge of the candidate's experience and suitability to work with vulnerable adults, where that role will include work with vulnerable adults.
- j. Verify the identity of referees.
- k. Conduct as many background checks as possible.
- l. Consider the use of probationary periods of employment to ensure suitability once in post.

Responding To A Disclosure Of Abuse

A vulnerable adult may carefully select a person to confide in. That chosen person will be someone they trust and have confidence in. It is important that the person who discloses abuse feels supported and facilitated in what may be a frightening and traumatic process for them. The person may feel perplexed, afraid, angry, despondent and guilty. It is important that any negative feelings they may have are not made worse by the kind of response they receive. A person who divulges abuse has engaged in an act of trust and their disclosure must be treated with respect, sensitivity, urgency and care.

It is of the utmost importance that disclosures are treated in a sensitive and discreet manner. Anyone responding to a vulnerable adult making such a disclosure should take the following steps:

1. Take what the vulnerable adult says seriously.
2. React calmly, as over-reaction may intimidate the vulnerable adult and increase any feelings of guilt that they may have.
3. Reassure the vulnerable adult that they were correct to tell somebody what happened.
4. Listen carefully and attentively.
5. Never ask leading questions.
6. Use open-ended questions to clarify what is being said and try to avoid having them repeat what they have told you.
7. Do not promise to keep secrets.
8. Advise that you will offer support but that you must pass on the information.
9. Do not express any opinions about the alleged abuser to the person reporting to you.
10. Explain and make sure that the vulnerable adult understands what will happen next. Do not confront the alleged abuser.

Reporting A Disclosure of Abuse

Following a disclosure of abuse, employees/volunteers should write down immediately after the conversation what was said, including all the names of those involved, what happened, where, when, if there were any witnesses and any other significant factors and note any visible marks on the individual making the report or any signs you observed.

1. Record the event, sign and date all reports and indicate the time the notes were made.
2. Ensure that the information is treated with the utmost confidence.
3. Allegations should not be investigated by employees/volunteers.
4. Employees/volunteers should pass that report to the Designated Officer(s) in TENI.

Under no circumstances should a vulnerable adult be left in a situation that exposes him or her to harm or to risk of harm. In the event of an emergency where you think a vulnerable adult is in immediate danger you should contact the Gardaí in the first instance.

Reporting Contact Details

Designated Protection Officer (DPO) Hannah Solley hannah@teni.ie 087 063 7933	Executive Director (ED) Daire Dempsey daire@teni.ie 087 258 4420
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Confidentiality

All information regarding concern for a vulnerable adult should be shared on 'a need to know' basis in the interests of the person concerned. The provision of information to the statutory agencies for the protection of a vulnerable adult is not a breach of confidentiality or data protection.

Employees/volunteers should not give any undertakings regarding secrecy.

Where an allegation is made against a TENI employee

If an allegation is made against an employee/volunteer within TENI, we will ensure that everyone involved gets a proper response. This involves making sure that two separate procedures are followed:

- the reporting procedure in respect of the vulnerable adult;
- the procedure for dealing with the employee/volunteer.

The same person will not deal with both of the above.

When an allegation of abuse is received against employees/volunteers it will be assessed promptly and carefully by TENI. Action taken in reporting an allegation of the abuse of a vulnerable adult against an employee/volunteer should be based on an opinion formed reasonably and in good faith. It will be necessary to decide whether a formal report should be made to the relevant Safeguarding & Protection Team within the HSE. *This decision should be based on reasonable grounds for concern, as outlined earlier in this policy document.*

The first priority is to ensure that no vulnerable adult is exposed to unnecessary risk. TENI, as an employer, will as a matter of urgency take any necessary protective measures. These measures will be proportionate to the level of risk and will not unreasonably penalise the employee/volunteer financially or otherwise, unless necessary to protect any vulnerable adults. Where protective measures penalise the employee/volunteer it is important that early consideration be given to the case.

Any action taken should be guided by agreed procedures, the applicable employment contract and the rules of natural justice. The Executive Director of TENI must be informed about the allegation as soon as possible. When TENI becomes aware of an allegation of abuse of a vulnerable adult by

an employee/volunteer during the execution of that person's duties, the Executive Director of TENI will inform the employee/volunteer of the following:

1. the fact that an allegation has been made against him or her;
2. the nature of the allegation.

The employee/volunteer will be afforded an opportunity to respond. The Executive Director of TENI will note the response and pass on this information if making a formal report to the relevant Safeguarding & Protection Team within the HSE.

Everyone in TENI will take care to ensure that actions taken by them do not undermine or frustrate any investigations/assessments conducted by the relevant Safeguarding & Protection Team within the HSE or An Garda Síochána. The Executive Director of TENI will maintain a close liaison with the statutory authorities to achieve this.

TENI should be notified of the outcome of an investigation and/or assessment. This will assist them in reaching a decision about the action to be taken in the longer term concerning the employee/volunteer.

In the event that it is not appropriate for the Executive Director to carry out the responsibilities above, the Chairperson of TENI will do so.

Appendices

Appendix One: Definitions

A Vulnerable Person

For the purposes of this policy TENI defines a Vulnerable Person as “an adult who may be restricted in reduced ability to guard [themselves] against harm or exploitation or to report such harm or exploitation. Restriction of their ability may arise as a result of physical or intellectual impairment. Vulnerability to abuse is influenced by both context and individual circumstances.” TENI will adopt this definition for the purposes of this policy. Restriction of ability may be linked to experience of disability, as defined under the United Nations Convention on the Rights of Persons with Disabilities, and its attendant risk of marginalisation, or to experience of other social marginalisation.

Abuse

TENI understands the definition of abuse in accordance with Safeguarding Vulnerable Persons at Risk of Abuse National Policy and Procedures (p. 8). ‘any act, or failure to act, which results in a breach of a vulnerable person’s human rights, civil liberties, physical and mental integrity, dignity or general wellbeing, whether intended or through negligence, including sexual relationships or financial transactions to which the person does not or cannot validly consent, or which are deliberately exploitative. Abuse may take a variety of forms’.

Types of Abuse

- Physical abuse - includes hitting, slapping, pushing, kicking and misuse or restriction of access to medications, restraint or inappropriate sanctions.
- Sexual abuse - includes rape and sexual assault, or sexual acts to which the vulnerable person has not consented, or could not consent, or into which they were compelled to consent.
- Psychological - abuse includes emotional abuse, threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, denial of identity / conversion practices, isolation or withdrawal from services or supportive networks.
- Financial or material abuse - includes theft, fraud, exploitation, pressure in connection with wills, property, inheritance or financial transactions, or the misuse or misappropriation of property, possessions or benefits.
- Discriminatory abuse - includes ageism, racism, sexism, ableism, and other forms of harassment, slurs or similar treatment.
- Neglect and acts of omission - includes ignoring medical or physical care needs, failure to provide access to appropriate health, social care or educational services, the withholding of the necessities of life such as medication, adequate nutrition and heating, withholding if supports necessary to independent, such as mobility or communication aids.
- Institutional abuse - may occur within residential care and acute settings including nursing homes, acute hospitals and any other in-patient settings, and may involve poor standards of care, denial of autonomy, rigid routines and inadequate responses to complex needs.

Appendix Two: Barriers for Vulnerable Persons Disclosing Abuse

Barriers to disclosure may occur due to some of the following:

- Fear on the part of the service user of having to leave their home or service as a result of disclosing abuse.
- A lack of awareness that what they are experiencing is abuse.
- A lack of clarity as to whom they should talk.
- Lack of capacity to understand and report the incident.
- Fear of an alleged abuser.
- Ambivalence regarding a person who may be abusive.
- Limited verbal and other communication skills.
- Fear of upsetting relationships.
- Shame and/or embarrassment.

Appendix Three: Relevant and Related Legislation

CHILD CARE ACT 1991

This is the key piece of legislation which regulates childcare policy in Ireland. Under this Act, Tusla has a statutory responsibility to promote the welfare of children who are not receiving adequate care and protection. If it is found that a child is not receiving adequate care and protection, Tusla has a duty to take appropriate action to promote the welfare of the child. This may include supporting families in need of assistance in providing care and protection to their children. The Child Care Act also sets out the statutory framework for taking children into care, if necessary.

PROTECTIONS FOR PERSONS REPORTING CHILD ABUSE ACT 1998

This Act protects you if you make a report of suspected child abuse to designated officers of Tusla, the Health Service Executive (HSE) or to members of the Gardaí as long as the report is made in good faith and is not malicious. Designated officers also include persons authorised by the Chief Executive Officer of Tusla to receive and acknowledge reports of mandated concerns about a child from mandated persons under the Children First Act 2015.

This legal protection means that even if a person reports a case of suspected child abuse and it proves unfounded, a plaintiff who took an action would have to prove that you had not acted reasonably and in good faith in making the report. A person who makes a report in good faith and in the child's best interests, may also be protected under common law by the defence of qualified privilege.

The Act created an offence of false reporting of child abuse where a person makes a report of child abuse to a designated officer of Tusla or of the Health Service Executive (HSE) or to a member of An Garda Síochána "knowing that statement to be false". This is a criminal offence designed to protect innocent persons from malicious reports.

A full list of persons in Tusla and the HSE, who are designated officers under the 1998 Act, can be found on the website of each agency (www.tusla.ie and www.hse.ie).

CRIMINAL JUSTICE ACT 2006 - Reckless Endangerment

Section 176 of this Act created an offence of reckless endangerment of children. This offence may be committed by a person who has authority or control over a child or abuser who intentionally or recklessly endangers a child by:

1. Causing or permitting the child to be placed or left in a situation that creates a substantial risk to the child of being a victim of serious harm or sexual abuse; or
2. Failing to take reasonable steps to protect a child from such a risk while knowing that the child is in such a situation.

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

Under this Act, it is a criminal offence to withhold information about a serious offence, including a sexual offence, against a person under 18 years or a vulnerable person. The offence arises where a person knows or believes that a specified offence has been committed against a child or vulnerable person and he or she has information which would help arrest, prosecute or convict another person for that offence, but fails without reasonable excuse to disclose that information, as soon as it is practicable to do so, to a member of An Garda Síochána.

The provisions of the Withholding legislation are in addition to any reporting requirements under the Children First Act 2015. Accordingly it is very important to note that

- the fact that a member of TENI has dealt with a child protection or welfare concern in accordance with these procedures and/or reported it under the Children First Act, 2015 does not absolve that person of his or her statutory obligation to disclose information to An Garda Síochána under the Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 where that person has information that falls within the scope of that Act or
- the fact that a member of TENI has disclosed information to An Garda Síochána does not absolve that person of his or her obligations to report concerns to Tusla in accordance with the requirements of these procedures and/or in accordance with requirements of the Children First Act, 2015.

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

Under these Acts, it is compulsory for employers to obtain vetting disclosures in relation to anyone who is carrying out relevant work with children or vulnerable adults. The Acts create offences and penalties for persons who fail to comply with their provisions. Statutory obligations on employers in relation to Garda vetting requirements for persons working with children and vulnerable adults are set out in the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012–2016.

CHILDREN FIRST ACT 2015

This Act places a number of statutory obligations on specific groups of professionals and on particular organisations providing services to children. The schedule of relevant services under the Children First Act 2015 is contained in Appendix 6 of these procedures. A full schedule of mandated persons under the Children First Act 2015 is contained in Appendix 6 of these procedures

Through the provisions of the Act, it is intended to:

- Raise awareness of child abuse and neglect
- Provide for mandatory reporting by key professionals
- Improve child safeguarding arrangements in organisations providing services to children
- Provide for cooperation and information-sharing between agencies when Tusla – Child and Family Agency, is undertaking child protection assessments

The Children First Act 2015 will help to ensure that child protection concerns are brought to the attention of Tusla without delay.

CRIMINAL LAW (SEXUAL OFFENCES) ACT 2017

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

FREEDOM OF INFORMATION ACTS 1997, 2003 & 2014

Any reports which are made to Tusla may be subject to the provisions of the Freedom of Information Acts, which enable members of the public to obtain access to personal information relating to them

which is in the possession of public bodies. However, the Freedom of Information Acts also provide that public bodies may refuse access to information obtained by them in confidence.

The exemptions and exclusions which are relevant to child protection include the following:

1. protecting records covered by legal professional privilege.
2. protecting records which would facilitate the commission of a crime.
3. protecting records which would reveal a confidential source of information.

TENI notes that records forwarded to a public body by TENI and held by that body may be subject to the provisions of the Freedom of Information Acts.

DATA PROTECTION LEGISLATION

The Irish Data Protection Acts (1988 to 2018), along with the 2016 General Data Protection Regulation (GDPR), are designed to protect the rights of individuals regarding personal data. The law defines personal data as “data relating to a living individual who is or can be identified from the data or from the data in conjunction with other information that is in, or is likely to come into, possession of the data controller”.

The law gives a right to every individual, irrespective of nationality or residence, to establish the existence of personal data, to have access to any such data relating to him or her and to have inaccurate data rectified or erased. It requires data controllers to make sure that the data they keep are collected fairly, are accurate and up to date, are kept for lawful purposes, and are not used or disclosed in any manner incompatible with those purposes. It also requires both data controllers and data processors to protect the data they keep and imposes on them a special duty of care in relation to the individuals about whom they keep such data.