

Note: Some of the draft provisions contained in this Adult Safeguarding Bill 2024 are markers only, without substantive content. They are included to indicate that such a structural or organisational provision will have to be inserted in any future Bill.

ADULT SAFEGUARDING BILL 2024

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ADULT SAFEGUARDING BILL 2024

Bill

entitled

An Act to provide for the safeguarding of adults at risk of harm by the taking of measures, including cooperation and information sharing; to provide for the establishment of a safeguarding body to perform the functions conferred on it, including to promote the health, safety and welfare of adults at risk of harm; to provide for safeguarding duties on providers of relevant services; to provide for the making of certain orders to safeguard adults at risk of harm; to provide for adult safeguarding reviews; to amend the Domestic Violence Act 2018; and to provide for related matters.

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Chapter 1

Preliminary and general

Short title and commencement

1. (1) This Act may be cited as the Adult Safeguarding Act 2024.

(2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Definitions

2. In this Act—

“Act of 1996” means the Powers of Attorney Act 1996;

“Act of 2004” means the Health Act 2004;

“Act of 2005” means the Health and Social Care Professionals Act 2005;

“Act of 2007” means the Health Act 2007;

“Act of 2015” means the Assisted Decision-Making (Capacity) Act 2015;

“Act of 2018” means the Domestic Violence Act 2018;

“adult” means a person who is not a child;

“adult at risk of harm” means an adult who by reason of their physical or mental condition or other particular personal characteristics or family or life circumstance (whether permanent or otherwise) needs support to protect himself or herself from harm at a particular time;

“adult safeguarding statement” has the meaning given to it in *section 69(1)(b)*;

“authorised officer” means a person appointed by the Safeguarding Body under *section 14* for the purposes of carrying out functions under this Act;

“capacity” has the same meaning as it has in the Assisted Decision-Making (Capacity) Act 2015;

“child” means a person who has not attained the age of 18 years;

“civil partner” has the meaning assigned to it by the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

“designated centre” has the same meaning as it has in section 2(1) of the Act of 2007;

“Director of Decision Support Services” means the director appointed under section 94 of the Act of 2015;

“emergency no-contact order” has the meaning given to it in *section 48(4)*;

“enactment” has the same meaning as it has in the Interpretation Act 2005;

“harm” means—

- (a) assault, ill-treatment or neglect in a manner that affects, or is likely to affect, health, safety or welfare,
- (b) sexual abuse, or
- (c) loss of, or damage to, property by theft, fraud, deception or coercive exploitation,

whether caused by a single act, omission or circumstance or a series or combination of acts, omissions or circumstances, or otherwise;

“Implementation Group” has the meaning given to it in *section 80*;

“interim no-contact order” has the meaning given to it in *section 47(1)*;

“Minister” means [the lead Minister to be determined by the Government or the Oireachtas];

“neglect”, in a manner likely to cause suffering or injury to health, or to seriously affect wellbeing, means—

- (a) a failure to adequately protect an adult under a person’s care from preventable and foreseeable harm,
- (b) a failure to provide adequate food, clothing, heating or medical aid for an adult under a person’s care, or
- (c) in the case of a person being unable to provide such—
 - (i) protection from harm, or
 - (ii) food, clothing, heating or medical aid,

to an adult under his or her care, a failure to take steps to have each provided under the enactments relating to health, social welfare or housing;

“no-contact order” has the meaning given to it in *section 46(4)*;

“relevant service” shall be construed in accordance with *section 4*;

“removal and transfer order” has the meaning given to it in *section 41(1)*;

“reportable harm” shall be construed in accordance with *section 21*;

“safeguarding” means measures that are, or may be, put in place to promote the health, safety and welfare of adults at risk of harm including to —

- (a) minimise the risk of harm to adults at risk of harm, and
- (b) support adults at risk of harm to protect themselves from harm at a particular time;

“safeguarding plan” means a documentary record of the planned actions that have been identified to promote the health, safety and welfare of an adult at risk of harm, including to—

- (a) minimise the risk of harm to an adult at risk of harm, and
- (b) support an adult at risk of harm to protect himself or herself from harm at a particular time;

“sectoral implementation plan” has the meaning given to it in *section 87*;

“self-neglect” means the inability, unwillingness or failure of an adult to meet his or her basic physical, emotional, social or psychological needs, which is likely to seriously affect his or her wellbeing;

“website” means an internet website (including part of such a website) –

- (a) to which access is readily available by members of the public, and
- (b) where anything published is readily available for inspection by members of the public.

Regulations and orders

3. (1) The Minister may by regulations provide for any matter referred to in this Act as prescribed or to be prescribed.

(2) Regulations under this Act may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

(3) Every regulation made under *subsection (1)* shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 3 weeks on which that House sits after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Relevant services

4. (1) Subject to the definition of a provider of a relevant service in *section 66*, for the purposes of this Act, a relevant service means a service mentioned in *Schedule 1*.

(2) The Minister may, by regulation, amend the list of relevant services mentioned in *Schedule 1* where he or she is satisfied that such amendment is necessary or expedient to ensure that the list contains only such work or activity that is being carried out by a person, a necessary and regular part of which consists mainly of a person having access to, or contact with, adults, or adults who are, may be, or may become adults at risk of harm.

Service of notices

5. (1) Subject to *subsection (2)*, any notice required or authorised by virtue of this Act to be given to any person by the Minister, or required to be given under this Part, shall be addressed to the person concerned by name and may be given—

- (a) by delivering it to the person,
- (b) by leaving it at the address at which the person ordinarily carries on business,
- (c) by sending it by pre-paid registered post addressed to the person at the address at which the person ordinarily carries on business,

- (d) if an address for the service of notices has been furnished by the person, by leaving it at, or sending it by pre-paid registered post addressed to, that person at that address, or

- (e) by sending it by means of electronic mail or a facsimile machine, to a device or facility for the reception of electronic mail or facsimiles located at the address at which the person concerned carries on business or, if an electronic address or facsimile number address for the service of a notice has been furnished by the person concerned, that electronic address or facsimile machine, but only if—
 - (i) the recipient's facility for the reception of electronic mail generates a message confirming a receipt of the electronic mail, or

 - (ii) the sender's facsimile machine generates a message confirming successful delivery of the total number of pages of the notice or direction;

and it is also given in one of the other ways mentioned in *paragraphs (a) to (d)*.

(2) For the purposes of this section, a company within the meaning of the Companies Act 2014, or the Companies Acts, shall be deemed to be ordinarily resident at its registered office, and every other body corporate and

every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

Guidelines

6. Subject to *section 76*, the Minister may issue guidelines for the purpose of providing practical guidance in respect of the performance of any functions under this Act or on the application of the legislation.

Establishment days

7. The Minister shall, by order, appoint a day or days to be the establishment day or an establishment day for the purposes of this Act.

Expenses

8. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure, National Development Plan Delivery and Reform, be paid out of money provided by the Oireachtas.

Review of operation of Act

9. (1) The Minister shall, not later than 3 years after the date of the coming into operation of this section, carry out a review of the operation of this Act.

(2) In carrying out a review under *subsection (1)*, the Minister may consult with such persons as he or she considers appropriate.

Chapter 2

Guiding principles

Guiding principles

10. (1) The Safeguarding Body and its authorised officers, as the case may be, shall, as appropriate, have regard to the principles set out in *subsections (3) to (11)* in the exercise of any function under this Act.

(2) In exercising any functions under this Act, a court may, as it considers it appropriate, have regard to the principles set out in *subsections (3) to (11)*.

(3) It shall be presumed that an adult at risk of harm has capacity in respect of the matter concerned unless the contrary is shown in accordance with the Act of 2015.

(4) An adult at risk of harm shall not be considered to be unable to make a decision in respect of the matter concerned unless—

- (a) all practicable steps have been taken, without success, to help him or her to make such decision, or

- (b) a person is preventing him or her from freely making such decision or is preventing practicable steps from being taken to help him or her to make such decision.

(5) An adult at risk of harm shall not be considered to be unable to make a decision in respect of the matter concerned merely by reason of making, having made, or being likely to make, an unwise decision.

(6) There shall be no exercise of a function under this Act in respect of an adult at risk of harm unless it appears necessary to exercise such function, having regard to the individual circumstances of the adult at risk of harm.

(7) The exercise of a function under this Act in respect of an adult at risk of harm shall—

- (a) be made in a manner that, insofar as is practicable, minimises any restriction to—
 - (i) the rights of the adult at risk of harm, and
 - (ii) the freedom of action of the adult at risk of harm,
- (b) have due regard to the need to respect the right of the adult at risk of harm to dignity, bodily integrity,

privacy, autonomy and control over his or her financial affairs and property,

- (c) be aimed at the prevention of harm to the adult at risk of harm,
- (d) be proportionate to the significance and urgency of the matter the subject of the intervention, and
- (e) be as limited in duration, insofar as is practicable, after taking into account the particular circumstances of the adult at risk of harm.

(8) The Safeguarding Body, its authorised officers or the court, as the case may be, in exercising a function under this Act, shall—

- (a) insofar as is practicable, permit, encourage and facilitate, the adult at risk of harm to participate, or to improve his or her ability to participate, as fully as possible, in making decisions or expressing views on the exercise of a function under this Act,
- (b) give effect, insofar as is practicable, to the will and preferences of the adult at risk of harm, insofar as that will and those preferences are reasonably ascertainable,

- (c) take into account—
 - (i) the beliefs and values of the adult at risk of harm (in particular those expressed in writing), insofar as those beliefs and values are reasonably ascertainable, and
 - (ii) any other factors that the adult at risk of harm would be likely to consider if he or she were able to do so, insofar as those other factors are reasonably ascertainable,

- (d) consider the views of the following persons, unless a person or a court, as the case may be, reasonably considers that it is not appropriate or practicable to do so:
 - (i) any person named by the adult at risk of harm as a person to be consulted on the matter concerned or any similar matter;
 - (ii) any decision-making assistant, co-decision-maker, decision-making representative or attorney under the Act of 1996, or the Act of 2015, for the adult at risk of harm,

- (e) act at all times in good faith and for the benefit of the adult at risk of harm,
- (f) consider all other circumstances of which the Safeguarding Body, its authorised officers or the court, as the case may be, is aware and which it would be reasonable to regard as relevant, and
- (g) consider any relevant information provided by a professional or another person and consider the need to co-operate with other entities or professionals when exercising a function under this Act.

(9) The Safeguarding Body, its authorised officers, or a court, as the case may be, in exercising a function under this Act, may consider the views of—

- (a) any person engaged in caring for the adult at risk of harm,
- (b) any person who has a *bona fide* interest in the health, safety or welfare of the adult at risk of harm, or
- (c) appropriately qualified health or social care professionals.

(10) In exercising a function under this Act in relation to an adult at risk of harm who lacks capacity, regard shall be had to—

- (a) the likelihood of the recovery of the capacity of such person in respect of the matter concerned, and
- (b) the urgency of exercising a function under this Act prior to such recovery.

(11) The Safeguarding Body, its authorised officers or a court, as the case may be, in exercising a function under this Act, shall ensure that, insofar as is practicable, the nature and volume of the information obtained in respect of the adult at risk of harm is adequate, is used only for the purpose of making a decision in respect of the adult at risk of harm, and that suitable and specific measures are taken to safeguard the rights of the adult at risk of harm in respect of such information.

(12) A failure to have regard to the guiding principles in *subsections (3) to (11)* in the exercise of a function under this Act shall not invalidate or affect the exercise of any such function.

PART 2

INDEPENDENT ADVOCACY

Independent advocacy

11. (1) The Safeguarding Body shall facilitate, insofar as is reasonably practicable, subject to *subsection (2)*, access to independent advocacy services, for an adult who is, or is believed to be, an adult at risk of harm, where it engages with such adult directly for the purposes of exercising its functions under this Act.

(2) The obligation under *subsection (1)* shall only apply where the Safeguarding Body is satisfied that—

- (a) without access to independent advocacy services, an adult who is, or is believed to be, an adult at risk of harm may experience significant challenges in doing one or more of the following:
 - (i) understanding relevant information;
 - (ii) retaining that information;
 - (iii) using or weighing that information as part of the process of engaging with the Safeguarding Body;
 - (iv) communicating his or her views, wishes or feelings (whether by talking, using sign language or any other means), and

- (b) there is no other suitable person who could effectively support the adult who is, or is believed to be, an adult at risk of harm to enable his or her engagement with the Safeguarding Body.

(3) The Safeguarding Body may—

- (a) prepare and publish a code of practice,
- (b) prepare and publish a code of practice in conjunction with another body,
- (c) request another body to prepare a code of practice, or
- (d) approve a code of practice prepared by another body, whether or not pursuant to a request referred to in *paragraph (c)*,

to provide guidance to independent advocates acting on behalf of adults who are, or are believed to be, adults at risk of harm, under this Act or under any relevant enactment.

(4) In this section, “relevant enactment” means the following regulations and any other regulations that may be construed as one with those regulations:

- (a) the Mental Health Act 2001 (Approved Centres) Regulations 2006 (S.I. No. 551 of 2006);
- (b) the Health Act 2007 (Care and Support of Residents in Designated Centres for Persons (Children and Adults) with Disabilities) Regulations 2013 (S.I. No. 367 of 2013);
- (c) the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) Regulations 2013 (S.I. No. 415 of 2013);
- (d) any other regulations as may be prescribed by the Minister to be relevant enactments for the purposes of *subsection (3)*.

PART 3

NATIONAL ADULT SAFEGUARDING OFFICE

Chapter 1

Establishment and functions

National Adult Safeguarding Office

12. There is established on the establishment day, an office within the Health Service Executive, which shall be known as Oifig Náisiúnta um Chumhdach Aosach or, in the English language, the National Adult Safeguarding Office (in this Act, referred to as the “Safeguarding Body”) to perform the functions conferred on it by this Act or any other enactment.

Functions of Safeguarding Body

13. (1) The functions of the Safeguarding Body shall be the following:

- (a) to promote the health, safety and welfare of adults at risk of harm who need support to protect themselves from harm at a particular time;
- (b) in relation to the function specified in *paragraph (a)*—
 - (i) to maintain and develop services, including regional services,
 - (ii) to carry on such activities, or publish such information, as it considers appropriate,
 - (iii) to undertake or commission research into such matters, or into such other matters as the Minister may request,

(iv) to collect, maintain and publish data on such matters,

(v) to provide training on such matters, or on such other matters as the Minister may request, and

(vi) to provide information to the public on such matters, or on such other matters as the Minister may request;

(c) to provide information or advice, or make proposals, to the Minister on matters relating to the functions of the Safeguarding Body.

(2) The Safeguarding Body shall, in the performance of its functions—

(a) demonstrate high standards of performance, transparency and accountability, and

(b) use the resources available to it in the most beneficial, effective and efficient manner.

(3) The Safeguarding Body shall—

- (a) cooperate with any person or body that it considers appropriate in relation to any matter connected to its functions,
- (b) have all such powers as are necessary or expedient for, or incidental to, the performance of its functions, which may include the making of such enquiries as it considers appropriate, and
- (c) facilitate and promote enhanced inter-agency cooperation to ensure that services for adults at risk of harm who need support to protect themselves from harm at a particular time are co-ordinated and provide an integrated response to the needs of adults at risk of harm.

(4) Subject to this Act and the Act of 2004, the Safeguarding Body shall be independent insofar as possible in the performance of its functions.

(5) The Safeguarding Body may perform any of its functions through or by any member of its staff who is duly authorised by it to perform such functions.

(6) The director of the Safeguarding Body shall report directly to the chief executive officer of the Health Service Executive.

Chapter 2

Authorised officers

Appointment of authorised officers

14. (1) The Safeguarding Body shall appoint such and so many of its employees as authorised officers for the purposes of this Act.

(2) Each authorised officer shall be given a warrant of his or her appointment and, when exercising any power conferred by this Act, shall, on request by any person affected, produce the warrant or a copy thereof, together with a form of personal identification.

(3) An appointment under this section shall cease—

- (a) if the Safeguarding Body revokes the appointment,
- (b) if the appointment is for a fixed period, on the expiry of that period, and
- (c) where the person appointed ceases to be a member of staff of the Safeguarding Body.

Reports of authorised officers

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*Appointment, functions and terms and conditions of Director of
Safeguarding Body*

Appointment of Director

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Functions of Director

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Terms and conditions of Director

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Staff of Safeguarding Body

Staff of Safeguarding Body

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ALTERNATE PART 3

National Adult Safeguarding Body

Chapter 1

Establishment and Functions

Definition

X. In this Part, “Safeguarding Body” means An Comhlachas Náisiúnta um Chumhdach Aosach or, in the English language, the National Adult Safeguarding Body, established on the establishment day.

National Adult Safeguarding Body

X. There shall stand established on the establishment day, a body which shall be known as An Comhlachas Náisiúnta um Chumhdach Aosach or, in the English language, the National Adult Safeguarding Body (in this Act, referred to as the “Safeguarding Body”) to perform the functions conferred on it by this Act or any other enactment.

Functions of Safeguarding Body

X. (1) The functions of the Safeguarding Body shall be the following:

- (a) to promote the health, safety and welfare of adults at risk of harm who need support to protect themselves from harm;
- (b) in relation to the function specified in *paragraph (a)*—
 - (i) to maintain and develop services, including regional services,
 - (ii) to carry on such activities, or publish such information, as it considers appropriate,
 - (iii) to undertake or commission research into such matters, or into such other matters as the Minister may request,
 - (iv) to collect, maintain and publish data on such matters,
 - (v) to provide training on such matters, or on such other matters as the Minister may request, and
 - (vi) to provide information to the public on such matters, or on such other matters as the Minister may request;
- (c) to provide information or advice, or make proposals, to the Minister on matters relating to the functions of the Safeguarding Body.

(1) The Safeguarding Body shall, in the performance of its functions—

- (a) demonstrate high standards of performance, transparency and accountability, and
- (b) use the resources available to it in the most beneficial, effective and efficient manner.

(2) The Safeguarding Body shall—

- (a) cooperate with any person or body that it considers appropriate in relation to any matter connected to its functions,
- (b) have all such powers as are necessary or expedient for, or incidental to, the performance of its functions, which may include the making of such enquiries as it considers appropriate,
- (c) facilitate and promote enhanced inter-agency cooperation to ensure that services for adults at risk of harm who need support to protect themselves from harm at a particular time are co-ordinated and provide an integrated response to the needs of adults at risk of harm, and

(d) for the purposes of its functions, have the power to acquire, receive on transfer, hold, sell, mortgage, lease, let or otherwise dispose of land, buildings or premises and to erect, alter or maintain buildings or premises.

(3) Subject to this Act, the Safeguarding Body shall be independent in the performance of its functions.

(4) The Safeguarding Body may perform any of its functions through or by any member of its staff who is duly authorised by it to perform such functions.

Chapter 2

Board of Safeguarding Body

Membership of Board

X. _____

Role of Board

X. _____

Conditions of office

X. _____

Resignations and casual vacancies

X. _____

Removal of members from office

X. _____

Meetings and procedures of Board

____. X

Committees of Board

X. _____

Remuneration and expenses of members of Board and committees

X. _____

Chapter 3

Chief Executive Officer of Safeguarding Body

Chief executive officer of Safeguarding Body

X. _____

Functions of chief executive officer

X. _____

Delegation of functions of chief executive officer

X. _____

Accountability of chief executive officer to Committee of Public Accounts

X. _____

Accountability of chief executive officer to other Oireachtas Committees

X. _____

Chapter 4

Employees, advisers and authorised officers

Employees of Safeguarding Body

X. _____

Superannuation

X. _____

Advisers of Safeguarding Body

X. _____

Authorised officers of Safeguarding Body

____. (1) The Safeguarding Body shall appoint such and so many of its employees as authorised officers for the purposes of this Act.

(2) Each authorised officer appointed under this section shall be given a warrant of his or her appointment and, when exercising any power conferred by this Act, shall, on request by any person affected, produce the warrant or a copy thereof, together with a form of personal identification.

(3) An appointment under this section shall cease—

- (a) if the Safeguarding Body revokes the appointment,
- (b) if the appointment is for a fixed period, on the expiry of that period, and
- (c) where the person appointed ceases to be a member of staff of the Safeguarding Body.

Reports of authorised officers

X. _____

Chapter 5

Accountability and funding of Safeguarding Body

Directions to Safeguarding Body

X. _____

Corporate plan of Safeguarding Body

X. _____

Determination by Minister of net expenditure limits for Safeguarding Body

X. _____

Grants to Safeguarding Body

X. _____

Submissions of business plan

X. _____

Code of governance

X. _____

Accounts of Safeguarding Body

X. _____

Gifts

X. _____

Annual report

X. _____

Assistance to other bodies

X. _____

Charges for services

X. _____

PART 4

REPORTING

Mandated persons

21. (1) (a) For the purposes of *subsections (2) and (3)*, any relevant harm of an adult at risk of harm shall be referred to as reportable harm.

(b) For the purposes of this section, subject to *paragraph (c)*, “reportable harm” means—

(i) assault, ill-treatment or neglect in a manner that seriously affects, or is likely to seriously affect, health, safety or welfare,

(ii) sexual abuse, or

(iii) serious loss of, or damage to, property by theft, fraud, deception or coercive exploitation,

whether caused by a single act, omission or circumstance or a series or combination of acts, omissions or circumstances, or otherwise.

(c) In this section, “reportable harm” shall be construed as excluding self-neglect other than where a mandated person has—

(i) assessed an adult who is reasonably believed to be an adult at risk of harm as lacking capacity, or

(ii) a belief, based on reasonable grounds, that the adult who is reasonably believed to be an adult at risk of harm lacks capacity,

to make personal care or welfare decisions at the particular point in time when the mandated person knows, believes or has reasonable grounds to suspect that the adult is self-neglecting.

- (d) The classes of persons specified in *Schedule 2* shall be mandated persons for the purposes of this Act.

(2) Subject to *subsections (4) to (8)*, where a mandated person knows, believes or has reasonable grounds to suspect, on the basis of information that he or she has received, acquired or becomes aware of in the course of his or her employment or profession as such a mandated person, that an adult at risk of harm—

- (a) has been harmed,
- (b) is being harmed, or
- (c) is at risk of being harmed,

he or she shall, as soon as is practicable, report that knowledge, belief or suspicion, as the case may be, to the Safeguarding Body.

(3) Where an adult at risk of harm believes that he or she—

- (a) has been harmed,
- (b) is being harmed, or
- (c) is at risk of being harmed,

and discloses that belief to a mandated person in the course of the mandated person's employment or profession as such a person, the mandated person shall, subject to *subsections (6), (7) and (8)*, as soon as is practicable, report that disclosure to the Safeguarding Body.

(4) A mandated person shall not be required to make a report to the Safeguarding Body under *subsection (2)* in the following circumstance:

- (a) where the mandated person knows or is of the opinion, based on reasonable grounds, that an adult at risk of harm has decision-making capacity in relation to their care and welfare at a particular point in time;
- (b) where the adult at risk of harm, who has decision-making capacity under *paragraph (a)*, has made known to the mandated person his or her view that the knowledge, belief or suspicion, or information relating to it, should not be disclosed to the Safeguarding Body and the mandated person relied upon that view;
- (c) where the mandated person knows or is of the opinion, based on reasonable grounds, that the adult at risk of harm is deciding of their own free will, without undue influence or duress, to state that they do not want a report to be made to the Safeguarding Body.

(5) A mandated person shall not be required to make a report to the Safeguarding Body under *subsection (2)* where the sole basis for the mandated person's knowledge, belief or suspicion is as a result of information he or she has received, acquired or become aware of—

(a) from—

(i) another mandated person, or

(ii) a person, other than a mandated person, who has reported the information concerned jointly with a mandated person pursuant to *subsection (7)(b)*,

that a report has been made to the Safeguarding Body in respect of the adult at risk of harm concerned by that other person,

(b) pursuant to his or her role, as a member of staff of the Safeguarding Body, or

(c) pursuant to his or her role in assisting the Safeguarding Body with the exercise of its functions under this Act.

(6) *Subsection (2)* or *(3)* shall apply only to information that a mandated person receives, acquires or becomes aware of after the commencement of

this section irrespective of whether the harm concerned occurred before or after that commencement.

(7) Subject to *subsection (8)*, a report under *subsection (2)* or *(3)* shall be made by the completion of such form as shall be specified for that purpose by the Safeguarding Body (in this Act, referred to as a “mandated report form”) and may be made by the mandated person—

- (a) himself or herself, or
- (b) jointly with one, or more than one, other person, irrespective of whether or not the other person is a mandated person.

(8) Where a mandated person acting in the course of his or her employment or profession knows, believes or has reasonable grounds to suspect that an adult at risk of harm may be at risk of immediate harm, he or she may make a report to the Safeguarding Body under *subsection (2)* or *(3)* other than by means of a mandated report form.

(9) Where a mandated person makes a report under *subsection (2)* or *(3)*, he or she shall complete a mandated report form as soon as may be but, in any event, not later than 3 days after the making of the report.

(10) Each of the following matters may be prescribed:

- (a) the procedures that are to apply to a mandated person making a report under this section;
- (b) the procedures that are to apply to the making of a report by a mandated person jointly with one or more than one other person under this section.

(11) The Safeguarding Body shall make a mandated report form available in such form and manner (including on a website maintained by it) as the Safeguarding Body considers appropriate.

(12) The obligations imposed on a mandated person under this section are in addition to, and not in substitution for, any other obligation that the person has to furnish, or disclose, information to the Safeguarding Body (whether or not in his or her capacity as a mandated person) but, subject to *subsection (9)*, this section shall not require the mandated person to disclose the information, that forms the basis for the making of a report under *subsection (2) or (3)*, to the Safeguarding Body more than once.

(13) Nothing in this section shall operate to affect any other obligation that a person has to disclose information to a member of the Garda Síochána under the Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 or to any other person by, or under, any other enactment or rule of law.

Authorised persons

22. (1) The chief executive officer of the Safeguarding Body shall authorise in writing such member or members of staff of that body he or she considers appropriate for the purposes of receiving reports under *section 21* and such persons shall, in this Act, be referred to as authorised persons.

(2) Where an authorised person receives a report under *section 21*, he or she shall forward, or cause to be forwarded, an acknowledgement in writing stating the date of receipt of the report to the mandated person or persons who made the report.

Safeguarding Body may request assistance of mandated persons

23. (1) Where the Safeguarding Body receives a report from a mandated person under *section 21*, the Safeguarding Body may take such steps as it considers necessary or appropriate in the exercise of its functions under this Act.

(2) The steps referred to in *subsection (1)* may include, but are not limited to, a request to any mandated person whom it believes, based on reasonable grounds, may be in a position to assist the Safeguarding Body for those purposes, to provide the Safeguarding Body with such information and assistance as it may reasonably require and is, in the opinion of the Safeguarding Body, necessary and proportionate in all of the circumstances of the case.

(3) Where the Safeguarding Body makes a request of a mandated person under *subsection (1)*, the mandated person shall, as soon as is practicable, comply with the request.

(4) If a mandated person furnishes any information (including a report), document or thing to the Safeguarding Body pursuant to a request made under *subsection (1)*, the furnishing of that information, document or thing shall not give rise to any civil liability in contract, tort or otherwise, nor shall the information, document or thing be admissible as evidence against that person in any civil or criminal proceedings.

(5) The Safeguarding Body may share information concerning an adult at risk of harm who is the subject of a report under *section 21* with a mandated person who is assisting that body but the sharing of such information shall be limited to such information as is, in the opinion of the Safeguarding Body, necessary and proportionate in all the circumstances of the case.

(6) In this section, “assistance” includes, in relation to a request under *subsection (1)*—

- (a) the provision of verbal or written information or reports,
- (b) attendance at any meeting arranged by the Body, and
- (c) the production to the Safeguarding Body of any document or thing.

Information obtained by relevant person from Safeguarding Body

24. (1) Subject to this Act, information obtained by a person (in this subsection, referred to as a “relevant person”) from the Safeguarding Body which—

(a) concerns or relates to an adult at risk of harm who is the subject of one, or more, of the following:

(i) a report under *section 21*;

(ii) an enquiry made by the Safeguarding Body in the exercise of its functions;

(iii) a safeguarding action taken by the Safeguarding Body in accordance with *Part 5*, and

(b) concerns, relates or arises out of such report, enquiry or action specified in *paragraph (a)*,

shall not be disclosed to a third party by the relevant person, save in accordance with law or under, and in accordance with, an authorisation by the Safeguarding Body under *subsection (2)*.

(2) The Safeguarding Body may authorise in writing the disclosure of information referred to in *subsection (1)* subject to such conditions (if any) as it considers appropriate and specifies in the authorisation.

(3) A person who contravenes *subsection (1)* shall be guilty of an offence and shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 6 months, or both.

(4) Where an offence under this section is committed by a body corporate and it is proved that the offence was committed with the consent or connivance, or was attributable to any wilful neglect, of a person who was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, that person, as well as the body corporate, shall be guilty of an offence and may be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(5) Where the affairs of a body corporate are managed by its members, *subsection (4)* applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

(6) Summary proceedings for an offence under this section may be brought and prosecuted by the Safeguarding Body.

(7) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, proceedings for an offence under this section may be instituted at any time within 12 months from the date of alleged commission of the offence.

Protection from civil liability of persons who have reported knowledge, belief or suspicion of harm

25. (1) A person who, apart from this section, would be liable in damages in respect of the communication, whether in writing or otherwise, by him or her to an appropriate person of his or her opinion that—

- (a) an adult at risk of harm has been, or is being, assaulted, ill-treated, neglected or sexually abused, or
- (b) the health, safety or welfare of an adult at risk of harm has been, or is being, avoidably impaired or neglected, in a manner which is avoidable,

shall not be so liable, other than where it is proved that he or she has not acted reasonably and in good faith in forming that opinion and communicating it to the appropriate person.

(2) The reference in *subsection (1)* to liability in damages shall be construed as including a reference to liability to be the subject of an order providing for any other form of relief.

(3) This section shall not apply to a communication that is a protected disclosure within the meaning of the Protected Disclosures Act 2014.

Protection from penalisation of employees for having reported knowledge, belief or suspicion of harm

26. (1) An employer shall not penalise an employee for having formed a belief of the kind referred to in *section 21(2)* and communicated it, whether in writing or otherwise, to an appropriate person if the employee has acted reasonably and in good faith in forming that opinion and communicating it to the appropriate person.

(2) *Subsection (1)* shall not apply to a communication that is a protected disclosure within the meaning of the Protected Disclosures Act 2014.

(3) In proceedings under Part 4 of the Workplace Relations Act 2015 before an adjudication officer or the Labour Court in relation to a complaint that *subsection (1)* has been contravened, it shall be presumed, until the contrary is proved, that the employee concerned acted reasonably and in good faith in forming the opinion and making the communication concerned.

(4) If a penalisation of an employee, in contravention of *subsection (1)*, constitutes a dismissal of the employee within the meaning of the Unfair Dismissals Acts 1977 to 2005, relief shall not be granted to the employee in respect of that penalisation both under Part 4 of the Workplace Relations Act 2015 and under those Acts.

(5) An employee may present a complaint, under the Workplace Relations Act 2015, to a rights commissioner that his or her employer has contravened *subsection (1)* in relation to him or her and, where he or she does so, the commissioner shall—

- (a) give the parties an opportunity to be heard by the commissioner and to present to the commissioner any evidence relevant to the complaint,
- (b) give a decision in writing in relation to it, and
- (c) communicate the decision to the parties.

(6) A decision of an adjudication officer under section 41 of the Workplace Relations Act 2015 in relation to a complaint of a contravention of *subsection (1)* shall do one, or more, of the following:

- (a) declare that the complaint was or, as the case may be, was not well founded;
- (b) require the employer to comply with *subsection (1)*, and, for that purpose, require the employer to take a specified course of action;
- (c) require the employer to pay to the employee compensation of such amount (if any) as is just and equitable having regard to all of the circumstances, but not exceeding 104 weeks' remuneration in respect of the employee's employment calculated in accordance with regulations under section 17 of the Unfair Dismissals Act 1977.

(7) A decision of the Labour Court under section 44 of the Workplace Relations Act 2015, on appeal from a decision of an adjudication officer referred to in *subsection (6)*, shall affirm, vary or set aside the decision of the adjudication officer.

PART 5

SAFEGUARDING ACTIONS

Authority of Safeguarding Body to carry out safeguarding actions

27. (1) The Safeguarding Body shall receive reports from persons who know, believe or suspect that an adult at risk of harm has been harmed, is being harmed or is at risk of being harmed.

(2) Where, on the basis of information reported to it, or otherwise available to it, the Safeguarding Body or an authorised officer of that body, believes, based on reasonable grounds, that there is a risk to the health, safety or welfare of an adult at risk of harm, it shall take whatever action it deems necessary or appropriate to safeguard the adult at risk of harm, which (without limitation) may include one or more of the following:

- (a) an intervention under *Part 6* where the relevant criteria, as set out in that Part, are met;
- (b) make a report to a professional regulatory body where a member of the relevant profession is a person

believed to pose a risk to the health, safety or welfare of an adult at risk of harm;

- (c) make a report to the Director of the Decision Support Service in accordance with the functions of the Director under the Act of 2015;
- (d) make an application to the Circuit Court under Part 5 of the Act of 2015;
- (e) prepare a safeguarding plan;
- (f) cooperate with other agencies to develop a safeguarding plan or take any other actions which the Safeguarding Body considers appropriate, to safeguard an adult at risk of harm;
- (g) share information with another relevant body pursuant to *Part 11*.

(3) Where, following receipt of a report of harm under *subsection (1)*, or otherwise in exercising its functions under this Act, the Safeguarding Body—

- (a) believes that an offence under Schedule 2 to the Criminal Justice (Withholding of Information on

Offences against Children and Vulnerable Persons)
Act 2012 has been committed against a vulnerable
person, or

- (b) has a *bona fide* concern under section 19(1) of the
National Vetting Bureau (Children and Vulnerable
Persons) Act 2012,

the Safeguarding Body shall notify the Garda Síochána or Vetting Bureau as
soon as is practicable in writing of that belief and shall state the reasons for
it.

(4) In circumstances where, following an investigation, the Garda
Síochána advises the Safeguarding Body that the person against whom an
allegation has been made poses a risk of harm to an adult at risk of harm, the
Safeguarding Body shall take such steps as it reasonably considers necessary,
based on reasonable grounds, to protect the adult at risk of harm from harm.

PART 6

SAFEGUARDING INTERVENTIONS AND SPECIFIED ORDERS

Chapter 1

Interpretation and application of Part 6

Interpretation (*Part 6*)

28. (1) In this Part—

“dwelling” means one, or more, of the following:

- (a) a building or structure (whether temporary or not) which is constructed or adapted for use as a residence and is being so used;
- (b) a vehicle or vessel (whether mobile or not) which is constructed or adapted for use as a residence and is being so used;
- (c) a part of a—
 - (i) building or structure (whether temporary or not), or
 - (ii) a vehicle or vessel (whether mobile or not), which is constructed or adapted for use as a residence and is being so used,

and includes a self-contained part of a relevant premises which is constructed or adapted for use as a residence and is being so used by a service provider, or a member

of staff of a service provider, but shall not include the room of a resident in a relevant premises;

“intervention” means—

- (a) a specified order,
- (b) a warrantless power of access to relevant premises,
- (c) a warrantless power of access to a place, including a private dwelling, and
- (d) the exercise of a power of—
 - (i) interview, or
 - (ii) medical examination,

in accordance with *section 58*.

(2) A reference in this Part to the Safeguarding Body shall, where the context so requires, include a reference to an authorised officer of the Safeguarding Body.

“records” includes, in addition to records in writing—

- (a) discs, tapes, sound-tracks or other devices in which information, sounds or signals are embodied so as to

be capable (with or without the aid of some other instrument) of being reproduced in legible or audible form,

(b) films, tapes or other devices in which visual images are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced in visual form, and

(c) photographs,

and a reference to a copy of records includes, in the case of records falling within *paragraph (a)* only, a transcript of the sounds or signals embodied therein, in the case of records falling within *paragraph (b)*, a still reproduction of the images embodied therein and, in the case of records falling within both of those paragraphs, such a transcript and such a still reproduction;

“relevant premises” means one, or more, of the following:

(a) a designated centre within the meaning of section 2(1) of the Act of 2007, insofar as it relates to an institution wherein residential services are provided to older people or to adults with disabilities;

(b) a premises in which day services are provided to adults with disabilities;

- (c) a premises in which day services are provided to older adults;
- (d) any hospital, hospice, health care centre or other centre which receives, treats or otherwise provides physical or mental health services or social care services to adults including approved centres within the meaning of section 2(1) of the Mental Health Act 2001;
- (e) a premises in which a service provider provides a health or personal social service on behalf of the Health Service Executive or provides a service similar or ancillary to a service that the Health Service Executive may provide;
- (f) a reception or accommodation centre which provides residential accommodation services to adults in the international protection process managed by, or under contract to, the Department of Children, Equality, Disability, Integration and Youth;
- (g) a centre which provides residential refuge accommodation services for victims of domestic, sexual or gender-based violence;

- (h) a centre which provides residential accommodation services for the purposes of providing substance misuse services;
- (i) a centre which provides residential accommodation services to adults experiencing homelessness.

“service provider” means a person who—

- (a) enters into an arrangement under section 38 of the Act of 2004 to provide a health or personal social service on behalf of the Health Service Executive or
- (b) receives assistance under section 39 of the Act of 2004 to provide a service similar or ancillary to a service that the Health Service Executive may provide;

“tape” includes—

- (a) a disc, magnetic tape, soundtrack or other device in which sounds or signals may be embodied for the purpose of being reproduced (with or without the aid of some other instrument) in audible form, and

- (b) a film, disc, magnetic tape or other device in which visual images may be embodied for the purpose of being reproduced (with or without the aid of some other instrument) in visual form.

“specified order” means—

- (a) a warrant for access to a relevant premises, a warrant for access to a place, including a private dwelling, a removal and transfer order, a no-contact order, an emergency no-contact order, or an interim no-contact order, or
- (b) an order varying or discharging an order referred to in *paragraph (a)*;

Least intrusive means

29. Where an application for a specified order is made, the court may grant such order only if it is satisfied that such order is, in the circumstances, the least intrusive means of achieving one or more of the following objectives:

- (a) reducing the risk of harm to the adult at risk of harm;
- (b) promoting and protecting his or her rights, safety and welfare;

- (c) supporting him or her to protect himself or herself from harm at that particular time.

Chapter 2

Powers of access to adult at risk of harm in relevant premises and associated powers

Power of entry to, and inspection of, relevant premises

30. (1) Subject to *subsections (2) and (3)*, an authorised officer may, without warrant, accompanied by any other person in accordance with *section 57*, at any time—

- (a) enter any relevant premises or part thereof, and
- (b) inspect any relevant premises or part thereof,

for the purposes of assessing the health, safety or welfare of an adult at risk of harm that the authorised officer is of the opinion, based on reasonable grounds, is present therein.

(2) An authorised officer may only take the steps set out in *subsection (1)*, where he or she has a belief, based on reasonable grounds, that—

- (a) there is an adult at risk of harm on the relevant premises,
- (b) there is a risk to the health, safety or welfare of the adult at risk of harm, that is caused by abuse, neglect or ill-treatment, and
- (c) access to the premises is necessary to assess the health, safety or welfare of the adult at risk of harm.

(3) Notwithstanding *subsection (1)*, an authorised officer may not enter or inspect any part of a relevant premises that is occupied as a dwelling other than—

- (a) with the consent of the occupier, or
- (b) in accordance with a warrant or other legal power of entry.

Circumstances in which District Court may issue warrant for access to relevant premises

31. (1) Where an authorised officer has a belief, based on reasonable grounds, in accordance with *section 30(2)*, and—

- (a) he or she (or any persons permitted to accompany him or her in accordance with *section 57*) has been prevented from entering a relevant premises in accordance with *section 30(1)*, or
- (b) has a belief, based on reasonable grounds, that there is a likelihood that he or she (or any persons permitted to accompany him or her in accordance with *section 57*) will be prevented from entering the premises in accordance with *section 30(1)*,

an application may be made to the District Court, in accordance with *section 54*, for a warrant under *subsection (2)* authorising the entry for the purposes of assessing the health, safety or welfare of an adult at risk of harm that the authorised officer is of the opinion, based on reasonable grounds, is present therein.

(2) If a judge of the District Court is satisfied on the sworn information of an authorised officer that there are reasonable grounds for believing that—

- (a) there is an adult at risk of harm on the relevant premises,
- (b) there is a risk to the health, safety or welfare of the adult at risk of harm, that is caused by abuse, neglect or ill-treatment,

- (c) a warrant to enter the relevant premises is necessary to assess the health, safety or welfare of the adult at risk of harm, and
- (d) an authorised officer (or any persons permitted to accompany him or her) has been prevented, or will be prevented, from entering the relevant premises,

the judge may issue a warrant permitting the authorised officer, accompanied by any other person in accordance with *section 57*, or by a member of the Garda Síochána as may be necessary, at any time or times, not later than 30 days of the date of issue of the warrant, on production of the warrant if requested, to enter the relevant premises or any part thereof, other than any part of a relevant premises used as a dwelling, if need be by reasonable force, and to perform the functions conferred by or under this Part.

(3) A warrant issued under *subsection (2)* shall be valid for 30 days after the day it is issued.

Powers of inspection and information gathering

32. (1) An authorised officer, in respect of assessing the health, safety or welfare of an adult at risk of harm on a relevant premises, may—

- (a) inspect, take copies of or extracts from and remove from the relevant premises any documents or records

(including personal records) relating to the health, safety or welfare of an adult at risk of harm,

- (b) inspect the operation of any computer and any associated apparatus or material which is or has been in use in connection with the records in question,
- (c) inspect any other item and remove it from the premises if an authorised officer considers it necessary or expedient for the purposes of assessing the health, safety or welfare of an adult at risk of harm,
- (d) interview in private any person—
 - (i) working at the premises concerned, or
 - (ii) who at any time concerned was or is in receipt of a service at the premises and who consents to be interviewed, and
- (e) make any other examination into the state and management of the premises or the standard of any services provided to an adult at risk of harm on the premises.

(2) An authorised officer, in respect of assessing the health, safety or welfare of an adult at risk of harm on a relevant premises, may require any person who—

- (a) is in charge of the premises or of services provided at the premises, or
- (b) possesses or is in charge of any records held at the premises or in respect of any services provided at the premises, even if the records are held elsewhere,

to furnish the authorised officer with the information the authorised officer reasonably requires for the purposes of assessing the health, safety or welfare of an adult at risk of harm, and to make available to the authorised officer any document or record in the power or control of the person described in *paragraph (a) or (b)* that, in the opinion of the authorised officer, is relevant to the assessment of the health, safety or welfare of an adult at risk of harm.

(3) An authorised officer, in respect of assessing the health, safety or welfare of an adult at risk of harm on a relevant premises, may—

- (a) require a person who is in charge of the relevant premises or possesses or is in charge of any relevant documents or records to produce a document or record in a form which is legible and can be taken away, and

(b) require a person who is in charge of the relevant premises or possesses or is in charge of any relevant documents or records to provide an explanation of any—

(i) document or record inspected,

(ii) information provided, or

(iii) other relevant matters.

(4) An authorised officer upon entering any such place or part thereof, shall, together with any appropriately qualified health or social care professional accompanying him or her, have the power to conduct a private interview with an adult at risk of harm and, if necessary, to perform a medical examination with that adult's consent, to assess the health, safety or welfare of the adult concerned in accordance with *section 58*.

Prescribed relevant premises

33. The Minister may prescribe any place or premises as a relevant premises for the purposes of this Part.

Chapter 3

Interpretation (Chapter 3 of Part 6)

34. For the purposes of this Chapter, “place” shall include a private dwelling and shall not include a relevant premises.

Power to seek warrant for access to an adult at risk of harm

35. (1) Where an authorised officer or a member of the Garda Síochána has a belief, based on reasonable grounds, that—

- (a) an adult at risk of harm is present in a place,
- (b) there is a risk to the health, safety or welfare of the adult at risk of harm,
- (c) a warrant for access is necessary to assess the health, safety or welfare of the adult at risk of harm, and
- (d) access to the adult at risk of harm cannot be gained by less intrusive means,

an application may be made to the District Court, in accordance with *section 54*, for a warrant under *section 36* authorising access to the place for the purposes of assessing the health, safety or welfare of an adult at risk of harm

that the authorised officer or member of the Garda Síochána is of the opinion, based on reasonable grounds, is present therein.

(2) Every such application for a warrant, under *subsection (1)*, shall be grounded upon an affidavit or information sworn by the applicant that—

- (a) there are reasonable grounds for believing each of the matters specified in *subsection (1)*, and
- (b) reasonable efforts have been made in relation to the following and that such efforts have failed:
 - (i) to seek consent to enter the place to gain access to the adult at risk of harm;
 - (ii) to gain access to the adult at risk of harm outside of the place.

Power of access to adult at risk of harm

36. (1) Where a judge of the District Court is satisfied by information on oath of an authorised officer or a member of the Garda Síochána that there are reasonable grounds for believing that—

- (a) an adult at risk of harm is present in the place,

- (b) there is a risk to the health, safety or welfare of the adult at risk of harm,
- (c) a warrant for access is necessary to assess the health, safety or welfare of the adult at risk of harm, and
- (d) access to the adult at risk of harm cannot be gained by less intrusive means,

the judge may issue a warrant in accordance with *subsection (2)* for the purposes of assessing the health, safety or welfare of an adult at risk of harm that the authorised officer or member of the Garda Síochána reasonably believes is present therein.

(2) A warrant under this section shall be expressed to and shall operate to authorise an authorised officer or a member of the Garda Síochána, or both, accompanied by any other person in accordance with *section 57*, to enter, not later than three days after the date of issue of the warrant (if necessary using reasonable force), on production of the warrant if requested, the place, named on the warrant, or any part thereof.

(3) An authorised officer upon entering any such place or part thereof, shall, together with any appropriately qualified health or social care professional accompanying him or her, have the power to conduct a private interview with an adult at risk of harm and, if necessary, to perform a medical examination with that adult's consent, to assess the health, safety or welfare of the adult concerned in accordance with *section 58*.

(4) A warrant issued under this section shall be valid for three days after the day it is issued.

Power of Garda Síochána to access adult at risk of harm

37. (1) Where a member of the Garda Síochána has a belief, based on reasonable grounds, that—

- (a) an adult at risk of harm is present in the place,
- (b) there is an immediate risk to the life and limb of the adult at risk of harm, and
- (c) the risk is so immediate to the adult at risk of harm that the place must be accessed so urgently that there would be insufficient time to apply to a judge of the District Court for a warrant for access,

the member, accompanied by any other person in accordance with *section 57*, may, without warrant, enter (if need be by reasonable force) the place or any part thereof.

(2) *Subsection (1)* is without prejudice to any other powers exercisable by a member of the Garda Síochána.

(3) Where a member of the Garda Síochána exercises the power under this section, he or she shall make an appropriate record of such use of the power, including the reasons for such use.

(4) Where a member of the Garda Síochána exercises the power under this section, he or she shall notify the Safeguarding Body in writing as to such use of the power as soon as is practicable.

(5) When exercising the power under this section, a member of the Garda Síochána may be accompanied by—

- (a) an authorised officer, or
- (b) any other person in accordance with *section 57*.

Power of information gathering

38. (1) A member of the Garda Síochána, when executing a warrant under *section 36* or exercising the power under *section 37*, may require any person who is present at the place to provide to the member his or her name and address.

(2) Where information is given in response to a request under *subsection (1)*, a record shall be kept of these details.

Powers of removal and transfer

Interpretation (*Chapter 4 of Part 6*)

39. For the purposes of this Chapter, “place” shall include a private dwelling and a relevant premises.

Power to seek order for removal and transfer

40. (1) Where an authorised officer or a member of the Garda Síochána has a belief, based on reasonable grounds, that—

- (a) an adult at risk of harm is present in a particular place,
- (b) there is a serious and immediate risk to the health, safety or welfare of the adult at risk of harm,
- (c) actions may be required to safeguard the health, safety or welfare of the adult at risk of harm,
- (d) removal to a designated facility or other suitable place is necessary to attempt to assess the matters specified in *paragraphs (b) and (c)* as such assessment cannot be done in the place where the adult at risk of harm currently is located, and

- (e) the assessment of the matters specified in *paragraphs (b) and (c)* cannot be achieved using less intrusive means,

an application may be made to the District Court, in accordance with *section 54*, for an order under *section 41* for the purposes of assessing the health, safety or welfare of an adult at risk of harm that the authorised officer or member of the Garda Síochána is of the opinion, based on reasonable grounds, is present therein and assessing whether any actions are needed in respect of the adult at risk of harm, where this cannot be done in the place where the adult at risk of harm currently is located.

(2) Every such application for an order, under *subsection (1)*, shall be grounded upon an affidavit or information sworn by the applicant that there are reasonable grounds for believing each of the matters specified in *subsection (1)*.

(3) Every such application for an order, under *subsection (1)*, shall be grounded upon an affidavit or information sworn by at least one of the following health or social care professionals:

- (a) a doctor;
- (b) a nurse;
- (c) a midwife;

- (d) a social worker;
- (e) an occupational therapist;
- (f) a speech and language therapist;
- (g) an emergency medical technician;
- (h) a paramedic or advanced paramedic;
- (i) a psychologist,

who may also be the applicant, or who is a separate person where the applicant is not such a health or social care professional.

(4) The Minister may prescribe any other professionals as health or social care professionals for the purposes of *subsection (3)*.

Order for removal and transfer of an adult at risk of harm

41. (1) Subject to *subsections (2) and (3)*, if a judge of the District Court is satisfied on information provided in accordance with *section 40* that there are reasonable grounds for believing that—

- (a) an adult at risk of harm is present in a particular place,
- (b) there is a serious and immediate risk to the health, safety or welfare of the adult at risk of harm,
- (c) actions may be required to safeguard the health, safety or welfare of the adult at risk of harm,
- (d) removal to a designated health or social care facility or other suitable place is necessary to attempt to assess the matters specified in *paragraphs (b) and (c)* as such assessment cannot be done in the place where the adult at risk of harm currently is located, and
- (e) the assessment of the matters specified in *paragraphs (b) and (c)* cannot be achieved using less intrusive means,

the judge may issue an order (in this Act, referred to as a “transfer and removal order”) in accordance with *subsection (4)* for the purposes of assessing the health, safety or welfare of an adult at risk of harm that the authorised officer or member of the Garda Síochána is of the opinion, based on reasonable grounds, is present therein and assessing whether any actions are needed in respect of the adult at risk of harm, where this cannot be done in the place where the adult at risk of harm currently is located.

(2) Where a removal and transfer order is sought in circumstances in which access to the adult at risk of harm has not yet been obtained, in order to grant the order, in addition to the matters specified in *subsection (1)* a judge of the District Court shall be satisfied that the granting of a warrant for access would be insufficient in the circumstances.

(3) If the applicant seeks to move the adult at risk of harm to a place other than a designated health or social care facility, in order to grant the order, in addition to the matters specified in *subsection (1)* a judge of the District Court shall be satisfied that such other place is suitable for the purposes of assessment of the adult at risk of harm.

(4) An order under this section shall be expressed to, and shall operate to, authorise a member of the Garda Síochána, accompanied by an authorised officer where practicable, together with any other person in accordance with *section 57*, not later than three days after the date of issue of the order, to take steps in accordance with *subsection (5)*.

(5) An order under this section shall, subject to *section 54*, allow for the following:

- (a) entry to the place named on the order or any part thereof;
- (b) removal of the adult at risk of harm from the place;

- (c) transfer of the adult at risk of harm from the place to a designated health or social care facility or other suitable place specified in the order,

on production of the order if requested, for the purposes of assessing the health, safety or welfare of the adult at risk of harm and assessing whether any actions are needed in respect of the adult at risk of harm, where this cannot be done in the place where the adult currently is.

(6) An order issued under this section shall be valid for three days after the day it is issued.

Notification to Safeguarding Body

42. Every application to court by a member of the Garda Síochána for a removal and transfer order under this Chapter shall be notified in writing to the Safeguarding Body as soon as is practicable.

Power of member of Garda Síochána to move adult at risk of harm

43. A member of the Garda Síochána may, for the purposes of executing an order granted under *section 41*—

- (a) enter, if need be using reasonable force, any place where he or she is of the opinion, based on reasonable grounds, that the adult at risk of harm may be, as specified in the order, and

- (b) take all reasonable measures necessary for the removal and transfer of the adult at risk of harm to the designated health or social care facility or other suitable place including, where necessary, the detention or restraint of the adult at risk of harm where reasonable efforts to secure the voluntary cooperation of the adult at risk of harm have failed.

Objection of adult at risk of harm to removal and transfer

44. (1) Where, following the execution of a removal and transfer order, the adult at risk of harm objects to remaining at the designated health or social care facility or other suitable place, the Safeguarding Body, members of the Garda Síochána, and other appropriately qualified health or social care professionals, as appropriate, shall facilitate the adult to leave, which shall include transferring the adult to the place from which they were removed or to a place of his or her choosing, insofar as is practicable.

(2) Where a removal and transfer order has been executed and it appears to the authorised officer, member of the Garda Síochána, or appropriately qualified health or social care professional, as the case may be, that the adult at risk of harm may lack capacity to decide to remain in the designated health or social care facility or other suitable place, they shall endeavour to support the adult at risk of harm to make the decision, and where necessary consider supports under the Act of 2015 and notifying, in writing, the Director of the Decision Support Service.

(3) A concern as to the decision-making capacity of the adult at risk of harm shall not be grounds for hindering or prohibiting the adult at risk of harm from leaving the designated health or social care facility or other suitable place.

Regulations regarding designated health or social care facility

45. The Minister may designate by regulations any place or premises as a designated health or social care facility for the purposes of this Part.

Chapter 5

Adult safeguarding no-contact orders

Adult safeguarding no-contact order

46. (1) In this Chapter, “applicant” means a person (other than the Safeguarding Body) who has applied, or a person on whose behalf the Safeguarding Body has applied by virtue of *section 54*, for a no-contact order against another person (in this section, referred to as the “respondent”).

(2) The applicant shall be—

- (a) an adult at risk of harm,
- (b) not the spouse or civil partner of the respondent,

- (c) not in an intimate relationship with the respondent prior to the application for a no-contact order, and
- (d) not residing with the respondent.

(3) Where an authorised officer has a belief, based on reasonable grounds, that the health, safety or welfare of an applicant so requires, an application may be made to the District Court, in accordance with *section 54*, for a no-contact order under this section.

(4) Where a judge of the District Court, on application to it, is satisfied that there are reasonable grounds for believing that the health, safety or welfare of the applicant so requires, the judge shall, if he or she considers it appropriate, by order (in this Act, referred to as a “no-contact order”) prohibit the respondent to the application from doing one or more of the following:

- (a) following, watching, pestering or communicating (including by electronic means) with, or about, the applicant;
- (b) attending at, or in the vicinity of, or watching or besetting a place where the applicant resides;
- (c) approaching or coming within a specified vicinity of the applicant.

(5) A no-contact order made by the District Court, or by the Circuit Court on appeal from the District Court, shall expire 2 years after the date of the making of the order or on the expiration of such shorter period as the court may provide for in the order.

(6) Where a no-contact order has been made under *subsection (4)*, any of the following persons may apply to have the order varied or discharged:

(a) where the application for the order was made by the Safeguarding Body in respect of an adult at risk of harm by virtue of *section 54*—

(i) the Safeguarding Body,

(ii) the applicant for the order, or

(iii) the respondent to that application, and

(b) in any other case—

(i) the applicant for the order, or

(ii) the respondent to the application for that order.

(7) The court may, upon hearing an application under *subsection (6)*, make such order varying the no-contact order as it considers appropriate in the circumstances.

(8) For the purposes of making an application under *subsection (6)*, a no-contact order made by a court on appeal from another court shall be treated as if it had been made by that other court.

Interim adult safeguarding no-contact order

47. (1) Where a judge of the District Court, on application to it for a no-contact order or between the making of that application and its determination, is satisfied that there are reasonable grounds for believing that there is an immediate risk to the health, safety or welfare of an adult at risk of harm such that an interim no-contact order is required, the judge shall, if he or she considers it appropriate, by order (in this Act, referred to as an “interim no-contact order”) prohibit the respondent to the application from doing one, or more, of the following:

- (a) following, watching, pestering or communicating (including by electronic means) with, or about, the applicant;
- (b) attending at or in the vicinity of, or watching or besetting a place where the applicant resides;

- (c) approaching or coming within a specified vicinity of the applicant,

for a specified period of time, pending the determination of the application for a no-contact order under *section 46*.

(2) Where an authorised officer has a belief, based on reasonable grounds, that there is an immediate risk to the health, safety or welfare of the adult at risk of harm such that an interim no-contact order is required, an application may be made to the District Court, in accordance with *section 54*, for an interim no-contact order under this section.

(3) An interim no-contact order ceases to have effect on the determination by the court of the application for the no-contact order.

(4) An interim no-contact order may be made *ex parte* where, having regard to the circumstances of the particular case, the court considers it necessary or expedient to do so in the interests of justice.

(5) Where an application for an interim no-contact order is made *ex parte*, the application shall be grounded on an affidavit or information sworn by the applicant.

(6) Where an interim no-contact order is made *ex parte*—

- (a) a note of evidence given by the applicant shall be prepared forthwith—
 - (i) by the judge,
 - (ii) by the applicant, or the applicant's solicitor, and approved by the judge, or
 - (iii) as otherwise directed by the judge, and
- (b) a copy of the interim no-contact order, affidavit or information sworn under *subsection (5)* and note of evidence shall be served on the respondent as soon as is practicable.

(7) Notwithstanding the generality of *subsection (3)*, if an interim no-contact order is made *ex parte* that order shall have effect for a period, not exceeding 8 working days after the day it is issued, specified in the order, other than where on application by the applicant for the no-contact order and on notice to the respondent the interim no-contact order is confirmed not later than that 8 day period by order of the court.

(8) An interim no-contact order made *ex parte* shall contain a statement of the effect of *subsection (7)*.

Emergency adult safeguarding no-contact order

48. (1) In this section, “applicant” means a person (other than the Safeguarding Body) who has applied, or a person on whose behalf the Safeguarding Body has applied by virtue of *section 54*, for an order against another person (in this section referred to as the “respondent”).

(2) The applicant shall be—

- (a) an adult at risk of harm,
- (b) not the spouse or civil partner of the respondent,
- (c) not in an intimate relationship with the respondent prior to the application for a no-contact order, and
- (d) not residing with the respondent.

(3) Where an authorised officer has a belief, based on reasonable grounds, that there is an immediate risk to the health, safety or welfare of the applicant and a no-contact order is required—

- (a) to address or mitigate that risk, or

- (b) to assess the voluntariness of the adult at risk of harm’s objection to the making of a no-contact order, and where necessary to facilitate a capacity assessment,

an application may be made to the District Court, in accordance with *section 54*, for an emergency no-contact order under this section.

(4) Where a judge of the District Court, on application to it, is satisfied that there are reasonable grounds for believing that there is an immediate risk to the health, safety or welfare of the adult at risk of harm, and a no-contact order is required—

- (a) to address or mitigate that risk, or
- (b) to assess the voluntariness of the adult at risk of harm’s objection to the making of a no-contact order, and where necessary to facilitate a capacity assessment,

the judge shall, if he or she considers it appropriate, by order (in this Act, referred to as an “emergency no-contact order”) prohibit the respondent to the application from doing one or more of the following:

- (i) following, watching, pestering or communicating (including by electronic means) with, or about, the applicant;
- (ii) attending at or in the vicinity of, or watching or besetting a place where the applicant resides;

(iii) approaching or coming within a specified vicinity of the applicant.

(5) An emergency no-contact order shall expire 8 working days after the date of the making of the order or on the expiration of such shorter period as the court may provide for in the order.

(6) An emergency no-contact order may be made *ex parte* where, having regard to the circumstances of the particular case, the court considers it necessary or expedient to do so in the interests of justice.

(7) Where an application for an emergency no-contact order is made *ex parte*, the application shall be grounded on an affidavit or information sworn by the applicant.

(8) If an emergency no-contact order is made *ex parte*—

(a) a note of evidence given by the applicant shall be prepared forthwith—

(i) by the judge,

(ii) by the applicant, or the applicant's solicitor, and approved by the judge, or

(iii) as otherwise directed by the judge, and

(b) a copy of the emergency no-contact order, affidavit or information sworn under *subsection (7)* and note of evidence shall be served on the respondent as soon as is practicable.

Obligations of Safeguarding Body upon making of emergency no-contact order

49. (1) Where, following the making of an emergency no-contact order under *section 48*—

- (a) the voluntariness of the adult at risk of harm's objection to a no-contact order is confirmed, and
- (b) the adult at risk of harm has, at the time concerned, capacity to object to the making of the order,

the Safeguarding Body shall apply for immediate revocation of the order, as soon as is practicable.

(2) Where an emergency no-contact order is made in circumstances wherein the adult at risk of harm is believed to lack capacity to consent to the making of a no-contact order, the Safeguarding Body shall—

- (a) endeavour to support the adult at risk of harm to make the decision and, where necessary, consider supports available under the Act of 2015, and
- (b) where necessary, having considered the supports available under the Act of 2015, notify the Director of the Decision Support Service of such matters in writing.

Respective rights, title or interests in property

50. (1) Upon any application for a no-contact order, interim no-contact order or emergency no-contact order, the court shall have regard to the respective rights, title or interests in the property wherein the adult at risk of harm resides.

(2) The making of a no-contact order, interim no-contact order or emergency no-contact order shall not affect title to a particular property, or disturb the existing mechanisms under other law open to an individual with a superior legal or beneficial interest in the relevant property.

Effect of appeal from order

51. (1) An appeal from a no-contact order shall, if the court that made the order or the court to which the appeal is brought so determines (but not otherwise), stay the operation of the order on such terms (if any) as may be imposed by the court making the determination.

(2) An appeal from an interim no-contact order or an emergency no-contact order shall not stay the operation of the order.

Contravention of no-contact order

52. (1) A respondent who wilfully contravenes

- (a) a no-contact order,
- (b) an interim no-contact order, or
- (c) an emergency no-contact order,

shall be guilty of an offence and shall be liable—

- (i) on summary conviction to a class B fine or to imprisonment for a term not exceeding 12 months, or both, and
- (ii) on conviction on indictment to a fine or a term of imprisonment not exceeding 5 years, or both.

(2) *Subsection (1)* is without prejudice to the law relating to contempt of court or any other liability, whether civil or criminal, that may be incurred by the respondent concerned.

Chapter 6

Supplemental provisions and procedure regarding specified orders

Court to consider views of adult at risk of harm on application for certain orders

53. (1) Upon any application for—

- (a) a removal and transfer order where access to the adult at risk of harm has been obtained, or
- (b) a no-contact order, an interim no-contact order, or an emergency no-contact order,

the court shall—

- (i) where the adult at risk of harm is not the applicant, enquire as to whether reasonable efforts have been made to ascertain the views of the adult at risk of harm in relation to whom the order is sought, concerning the making of such order, and

- (ii) in determining whether to grant any such order, have regard to any views expressed by the adult at risk of harm in relation to whom the order is sought, concerning the making of such order.

(2) The court shall not make a no-contact order or an interim no-contact order if it is satisfied that the adult at risk of harm objects to the making of the order.

(3) The court may grant a removal and transfer order or an emergency no-contact order, even if the adult at risk of harm objects to the making of the order, if it is satisfied that there are reasonable grounds for believing that—

- (a) the apparent objection of the adult at risk of harm is not voluntary, or
- (b) the adult at risk of harm may lack capacity to decide whether to—
 - (i) remain in the place where they currently are, or be moved to a designated health or social care facility or other suitable place, or
 - (ii) continue to have contact with the intended respondent to a no-contact order,

as the case may be.

Power of Safeguarding Body to apply for certain orders

54. (1) Subject to the relevant provisions of this Act, the Safeguarding Body may apply to the court for any specified order, including—

- (a) a no-contact order,
- (b) an interim no-contact order, or
- (c) an emergency no-contact order,

on behalf of, or in respect of, an adult at risk of harm.

(2) Before applying for—

- (a) in the case of a member of the Garda Síochána or the Safeguarding Body, a removal and transfer order, or
- (b) in the case of the Safeguarding Body—
 - (i) a no-contact order,

(ii) an interim no-contact order, or

(iii) an emergency no-contact order,

the Safeguarding Body or the member of the Garda Síochána, as the case may be, shall make reasonable efforts to ascertain the views of the adult at risk of harm whom the order is intended to protect.

(3) In determining whether to apply for—

(a) a removal and transfer order,

(b) a no-contact order,

(c) an interim no-contact order, or

(d) an emergency no-contact order,

in any case the Safeguarding Body or, in the case of a removal or transfer order, the member of the Garda Síochána, shall have regard to any wishes expressed by the adult at risk of harm whom the order is intended to protect.

(4) Where, having ascertained the views of the adult at risk of harm under *subsection (2) or (3)*, it is apparent that the adult at risk of harm objects

to the making of the order, the Safeguarding Body shall not make any application for a no-contact order or an interim no-contact order.

(5) Where, having ascertained the views of the adult at risk of harm under *subsection (2) or (3)*, it is apparent that the adult at risk of harm objects to the making of the order, an authorised officer of the Safeguarding Body, or a member of the Garda Síochána in the case of a removal and transfer order, as the case may be, may nonetheless make an application for a removal and transfer order or an emergency no-contact order if he or she has a belief, based on reasonable grounds, that—

- (a) the apparent objection of the adult at risk of harm is not voluntary, or
- (b) the adult at risk of harm may lack capacity to decide whether to—
 - (i) remain in the place where they are currently located, or be moved to a designated health or social care facility or other suitable place, or
 - (ii) continue to have contact with the intended respondent to a no-contact order,

as appropriate.

(6) On any application under this section, the Safeguarding Body, or the member of the Garda Síochána, as the case may be, shall provide evidence to the District Court, in accordance with *section 55*, demonstrating the reasonable efforts made to ascertain the wishes of the adult at risk of harm, and information regarding the use of any methods or supports such as Speech and Language Therapists or independent advocacy services.

Special sitting of District Court

55. (1) Subject to *subsection (2)* and any direction given under *subsection (3)*, any application for a specified order shall be made at the next sitting of the District Court for the District Court area wherein the relevant place or any of them is located, or in the case of a no-contact order the District Court area wherein the adult at risk of harm resides.

(2) In the event that the next such sitting as specified in *subsection (1)* is not due to be held not earlier than three days of the date of the intended application, any application for a specified order may be made at a sitting of the District Court, which has been specially arranged in accordance with *subsection (3)*, held not later than the said three days.

(3) The following provisions shall have effect in relation to the issuing of specified order:

- (a) any such order shall, subject to *paragraph (b)*, be made by the justice for the district wherein the relevant place or any of them is located, or in the case of a no-

contact order by the justice for the district wherein the adult at risk of harm resides;

- (b) where a justice for the district as specified in *paragraph (a)* is not immediately available, an order may be made by any justice of the District Court;
- (c) an application for any such order may, if the justice is satisfied that the urgency of the matter so requires, be heard and an order made thereon elsewhere than at a public sitting of the District Court.

Anonymity of adults at risk of harm and others

56. (1) Where any application is made for a specified order, or to vary or discharge a specified order, any person who, by any means, publishes, distributes or broadcasts—

- (a) any information,
- (b) a photograph of, or a photograph that includes a depiction of, the person believed to be an adult at risk of harm or a dependent person of him or her, or
- (c) any other representation of the physical likeness, or any representation that includes a depiction of the

physical likeness, of the person believed to be an adult at risk of harm or a dependent person of him or her,

that is likely to enable the identification of the person believed to be an adult at risk of harm or a dependent person of him or her shall be guilty of an offence.

(2) A person shall not be guilty of an offence under *subsection (1)* where—

- (a) the person believed to be an adult at risk of harm consents in court to being identified or to the dependent person of him or her being identified, and
- (b) the court, having considered the effect of identification on the person believed to be an adult at risk of harm or the dependent person of him or her, consents to that identification.

(3) Where a judge of the District Court considers that the interests of justice so require, he or she may, having taken into account the views of the person believed to be an adult at risk of harm, direct that such information, photograph or representation referred to in *subsection (1)* as he or she specifies may be published, distributed or broadcast in such manner and subject to such conditions (if any) as he or she specifies in the direction.

(4) A direction given under *subsection (3)* shall be in writing.

(5) A person who contravenes a direction given under *subsection (3)*, including a condition in such a direction, shall be guilty of an offence.

(6) The respondent to—

- (a) a no-contact order,
- (b) an interim no-contact order, or
- (c) an emergency no-contact order,

shall be identified, and may be the subject of information, photograph or representation, unless doing so would identify the adult at risk of harm or a dependent person of such adult.

(7) A person who is guilty of an offence under *subsection (1)* or *(5)* is liable—

- (a) on summary conviction to a class A fine or to imprisonment for a term not exceeding 12 months, or both, or

- (b) on conviction on indictment to a fine not exceeding €50,000 or to imprisonment for a term not exceeding three years, or both.

(8) It shall be a defence for a person who is charged with an offence under *subsection (1)* or *(5)* to prove that at the time of the alleged offence the person was not aware, and neither suspected nor had reason to suspect—

- (a) in the case of an offence under *subsection (1)*, that the information, photograph or other representation published or broadcast was information, a photograph or other representation referred to in that subsection, or
- (b) in the case of an offence under *subsection (5)*, that the information, photograph or other representation was published or broadcast in contravention of a direction given under *subsection (3)*, including a condition in such a direction.

(9) It shall not be an offence for the person believed to be an adult at risk of harm to engage in the behaviour specified in *subsection (1)* or *(5)*.

(10) If any matter is published, distributed or broadcast in contravention of *subsection (1)* or *(5)*, persons who shall be guilty of an offence include, but are not limited to, all or any of the following:

- (a) in the case of matter published in a newspaper or periodical publication, the proprietor, the editor and the publisher thereof;
- (b) in the case of matter published in any other written publication, the publisher thereof;
- (c) in the case of matter distributed online, any person who publishes, distributes or broadcasts the matter;
- (d) in the case of matter broadcast, each person who transmits or provides the programme in which the broadcast is made and each person who performs functions in relation to the programme corresponding to those of the editor of a newspaper or periodical publication.

(11) In this section—

“broadcast” has the same meaning as it has in the Broadcasting Act 2009;

“distribute” means distribute to the public or a portion of the public;

“publish” means publish, other than by way of broadcast, to the public or a portion of the public.

Authorised officer or member of Garda Síochána may be accompanied by health or social care professional or any such other person as may be necessary

57. (1) An authorised officer or member of the Garda Síochána may be accompanied by one or more appropriately qualified health or social care professionals when performing functions under this Part in accordance with an order under *section 31, 36, or 41* or a power under *section 30 or 37*.

(2) An authorised officer or member of the Garda Síochána may be accompanied by any other person that the officer or member reasonably considers necessary or appropriate when performing functions under this Part in accordance with an order under *section 31, 36, or 41* or a power under *section 30 or 37*.

Power of interview and medical examination

58. (1) Subject to *subsection (4)*, an authorised officer, and any appropriately qualified health or social care professional accompanying him or her, may interview, in private, any person who he or she believes to be an adult at risk of harm and is accessed in accordance with *section 30, 31, 36, 37 or 41*.

(2) Subject to *subsection (4)*, an authorised officer, and any appropriately qualified health or social care professional accompanying him or her, may conduct a private medical examination of any person who he or she believes to be an adult at risk of harm and is accessed in accordance with *section 30, 31, 36, 37 or 41*.

(3) Such interview or assessment, under *subsection (1) or (2)*, may take place in the place where the adult at risk of harm is found or removed to, in accordance with an order under *section 41*.

(4) An adult at risk of harm may refuse to answer any question or to be medically examined, and shall be informed of such entitlement before an interview or examination is carried out.

Notice in plain English

59. (1) Where an order under *section 31, 36 or 41* is executed or a power under *section 30* is exercised, a notice in plain English shall be provided to the adult at risk of harm to whom access is sought, or whose assessment is intended, by the use of the warrant, order or power, explaining the nature of the warrant or power being exercised and the process involved.

(2) The Minister may prescribe a standard notice setting out the form and content of a notice to be given under this section.

Oral explanation

60. (1) Where an order under *section 31, 36 or 41* is executed or a power under *section 30 or 37* is exercised, the member of the Garda Síochána or authorised officer, insofar as is practicable, explain to the adult at risk of harm—

- (a) the nature of the order or power and the powers exercisable under it, and
- (b) the purpose of the order or power.

(2) Where a removal and transfer order is executed under *section 41*, in addition to the matters specified in *subsection (1)*, the member of the Garda Síochána or authorised officer, as the case may be, should insofar as is practicable explain to the adult at risk of harm that upon arrival at the designated facility or other suitable place, the adult at risk of harm may choose to leave, and shall be facilitated in doing so if so chosen.

(3) Any failure to give an explanation in accordance with this section shall not invalidate the order or the exercise of any power under a provision of this Part or on foot of a specified order.

Use of reasonable force

61. (1) Where a member of the Garda Síochána or an authorised officer is executing an order under *section 31* or *41* or exercising a power under *section 37* the member or authorised officer, as the case may be, may use reasonable force for the purposes of accessing the relevant place or premises.

(2) The authorisation given in *subsection (1)* shall not encompass the use of reasonable force to restrain, detain or otherwise restrict the movement of an adult at risk of harm.

Offences

62. (1) A staff member, provider of a relevant service or other person carrying out functions for and within a relevant premises who—

- (a) refuses to allow an authorised officer or any person accompanying him or her to enter a relevant premises (other than any part of a relevant premises used as a dwelling) in accordance with *section 30* or in accordance with a warrant granted under *section 31*, or
- (b) obstructs or impedes an authorised officer or any person accompanying him or her in the exercise of functions in accordance with *Chapter 3* or in accordance with a warrant granted under *section 31*, or
- (c) gives to an authorised officer or any person accompanying him or her who is exercising functions in accordance with *Chapter 3* or in accordance with a warrant granted under *section 31* information that the person giving the information knows, or should reasonably know, to be false or misleading,

shall be guilty of an offence.

(2) Subject to *subsection (5)*, any person who obstructs or impedes a member of the Garda Síochána or an authorised officer in executing a warrant granted under *section 31* or *36*, exercising the power under *section*

30 or 37 or executing an order granted under *section 41* shall be guilty of an offence.

(3) Subject to *subsection (5)*, a member of the Garda Síochána may arrest otherwise than on foot of a warrant any person who obstructs or impedes that member in executing a warrant granted under *section 36*, exercising the power *section 37* or executing an order granted under *section 41*.

(4) A person guilty of an offence under *subsection (1)* or *(2)* shall be liable—

- (a) on summary conviction, to a fine not exceeding €5,000, or imprisonment for a term not exceeding 12 months, or both, or
- (b) on conviction on indictment, to a fine not exceeding €70,000, or imprisonment for a term not exceeding 2 years, or both.

(5) It shall not be an offence for the adult at risk of harm to whom access is sought, or whose assessment is intended, by the use of the warrant, order or power, as the case may be, to engage in the behaviour specified in this section.

Chapter 7

Amendments to Act of 2018

Amendment of section 2 of Act of 2018

63. Section 2 of the Act of 2018 is amended by the substitution of the following definition for the definition of “Agency”:

“ ‘Agency’ means the Child and Family Agency or the National Adult Safeguarding Body, as the context requires;”.

Amendment of section 6 of Act of 2018

64. Section 6(1)(a) of the Act of 2018 is amended—

- (a) in subparagraph (v), by the substitution of “contractual,” for “contractual, or”,
- (b) in subparagraph (vi), by the substitution of “respondent, or” for “respondent;”, and
- (c) by the insertion of the following subparagraph after subparagraph (vi):

“(vii) is an adult at risk of harm as defined in the *Adult Safeguarding Act 2024* who resides with the respondent in a relationship the basis of

which is a contractual arrangement whereby the respondent provides care for the adult at risk of harm;”.

Amendment of section 7 of Act of 2018

65. Section 7(1) of the Act of 2018 is amended—

- (a) in paragraph (c), by substituting “barring order,” for “barring order, or”,
- (b) in paragraph (d), by substituting “person, or” for “person.”, and
- (c) by inserting the following paragraph after paragraph (d):

“(e) is an adult at risk of harm as defined in the *Adult Safeguarding Act 2024* who resides with the respondent in a relationship—

- (i) the basis of which is not primarily contractual, or
- (ii) the basis of which is a contractual arrangement whereby the respondent provides care for the adult at risk of harm.”.

PART 7

ADULT SAFEGUARDING DUTIES ON PROVIDERS OF RELEVANT SERVICE

Definitions (*Part 7*)

66. In this Part—

“contract of employment” means—

- (a) a contract of service or apprenticeship, or
- (b) any other contract whereby an individual agrees with another person, who is carrying on the business of an employment agency within the meaning of the Employment Agency Act 1971, and is acting in the course of that business, to do or perform personally any work or service for a third person (whether or not the third person is a party to the contract),

whether the contract is express or implied and, if express, whether it is oral or in writing;

“non-compliance notice” means a notice served by the Safeguarding Body under *section 70*;

“personal relationship” has the same meaning as it has in section 3 of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012;

“provider of a relevant service” means a person—

- (a) who provides a relevant service, and
- (b) who, in respect of the provision of such relevant service—
 - (i) employs (whether under contract of employment or otherwise) one, or more than one, other person to undertake any work or activity that constitutes a relevant service,
 - (ii) enters into a contract for services with one, or more than one, other person for the provision by the person of a relevant service, or
 - (iii) permits one, or more than one, other person (whether or not for commercial or other consideration and whether or not as part of a course of education or training, including an internship scheme) to undertake any work or activity, on behalf of the person, that constitutes a relevant service;

“register of non-compliance” shall be construed in accordance with *section 71*;

“relevant authority” means one, or more, of the following:

- (a) the Health Information and Quality Authority;
- (b) the Mental Health Commission;
- (c) An Ghníomhaireacht um Fhoréigean Baile, Gnéasach agus Inscnebhunaithe;
- (d) An tÚdarás Póilíneachta agus Sábháilteachta Pobail;

“relevant person” means a person who is appointed by a provider of a relevant service to be the first point of contact in respect of the provider’s duty to undertake or document a risk assessment or prepare an adult safeguarding statement;

“warning notice” shall be construed in accordance with *section 70(1)*.

Application of *Part 7*

67. A person who would but for this section be regarded as a provider of a relevant service shall not be a provider for the purposes of this Part if the relevant service being provided by the person concerned is—

- (a) undertaken in the course of a family relationship, where the work or activity is undertaken solely for the benefit of an adult, who may be an adult at risk of harm, or other family member of the person,
- (b) undertaken in the course of a personal relationship, without payment or for any other consideration, or
- (c) undertaken on an occasional basis only for no consideration at a sports or community event or activity.

Duty to prevent harm

68. (1) A provider of a relevant service shall ensure, insofar as is practicable, that its services are managed and provided in such a way as to prevent harm to any adult, who is, may be, or may become an adult at risk of harm, while availing of the service.

(2) This section shall not be taken to confer on any person a right in law that he or she would not otherwise have to require a provider of a relevant service to take any steps or to seek damages for the failure to take such steps.

Risk assessments and adult safeguarding statements

69. (1) Where a person proposes to operate as a provider of a relevant service, he or she shall, not later than 3 months from the date on which he or she commences as such a provider—

- (a) undertake, and document, a risk assessment of any potential for harm to an adult while availing of the service,
- (b) prepare, in accordance with *subsection (3)*, a written statement (in this Act, referred to as an “adult safeguarding statement”) specifying the service being provided and the procedures, referred to in *subsection (3)*, to be observed to ensure insofar as is practicable, that an adult, while availing of the service, is safe from harm, and
- (c) appoint a relevant person for the purposes of this Part.

(2) A person who, immediately before the commencement of this section, was operating as a provider of a relevant service shall, not later than 3 months from the date of such commencement—

- (a) undertake, and document, a risk assessment,
- (b) prepare, in accordance with *subsection (3)*, an adult safeguarding statement, and
- (c) appoint a relevant person for the purposes of this Part.

(3) An adult safeguarding statement shall include a written assessment of the risk and, in that regard, specify the policies, procedures, and measures that are in place in respect of the following:

- (a) to manage any risk identified as a result of a risk assessment;
- (b) how to proceed where a member of staff is the subject of an investigation (however described) in respect of any act, omission or circumstances in respect of an adult availing of a relevant service;
- (c) for the selection or recruitment of any person as a member of staff of the provider of a relevant service with regard to that person's suitability to work with adults who may be adults at risk of harm or who may be vulnerable persons within the meaning of section 2 of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012;
- (d) for the provision of information and, where necessary, instruction and training, to members of staff of the provider of a relevant service in relation to the identification of the occurrence of harm;
- (e) for reviewing and updating care plans or personal plans including updating existing plans to include safeguarding plans, where there are concerns that an adult is at risk of harm while availing of the relevant service;

- (f) for preparing and reviewing safeguarding plans, where there are concerns that an adult is at risk of harm while availing of the relevant service;
- (g) for reporting to the Safeguarding Body by the provider of a relevant service or a member of staff of the provider (whether a mandated person or otherwise) in accordance with *Part 4*, including any guidelines issued by the Minister;
- (h) for maintaining a list of the persons (if any) in the relevant service who are mandated persons in accordance with the reporting requirements in *Part 4*;
- (i) for appointing a relevant person to be the first point of contact in respect of the provider of a relevant service's duty to undertake and document a risk assessment and prepare an adult safeguarding statement in accordance with *Part 7*.

(4) A provider of a relevant service shall ensure that the adult safeguarding statement being prepared by the provider has due regard to, and is in accordance with, any guidelines issued by the following:

- (a) the Minister under *section 6*;
- (b) the Safeguarding Body;

(c) the relevant authority.

(5) A provider of a relevant service shall furnish records of the provider's risk assessment and a copy of the provider's adult safeguarding statement—

(a) to adults availing of the relevant service,

(b) to members of staff of the provider, and

(c) on request, to—

(i) a relevant authority, or

(ii) any person.

(6) As soon as may be after the preparation of an adult safeguarding statement or any review of it, the provider concerned shall display the statement in a prominent place within the relevant service where it is clearly visible.

(7) Subject to *subsection (8)*, a provider of a relevant service shall, at intervals of not more than 24 months, undertake a review of its adult safeguarding statement and the first such review shall be undertaken not more than 24 months from the date on which the first adult safeguarding statement was prepared under *subsection (1) or (2)*, as the case may be, and displayed under *subsection (6)*.

(8) A provider of a relevant service shall review an adult safeguarding statement prepared under this section as soon as is practicable after there has been a material change in any matter to which the statement refers.

(9) Any of the following matters may be prescribed:

- (a) the form of an adult safeguarding statement;
- (b) the matters to be included in an adult safeguarding statement;
- (c) the procedures to be followed by a provider of a relevant service in respect of a review, by the provider, of an adult safeguarding statement.

(10) This section shall not be taken to confer on any person a right in law that he or she would not otherwise have to require a provider of a relevant service to take any steps or to seek damages for the failure to take such steps.

(11) In this section, “member of staff” means, in relation to a provider of a relevant service, a person referred to in *paragraph (b)* of the definition of provider of a relevant service as set out in *section 66*.

Non-compliance with request to furnish documented risk assessment and adult safeguarding statement

70. (1) Where, pursuant to a request made by a relevant authority under *section 69(5)(c)(i)*, a provider of a relevant service, which is required to comply with standards set by a relevant authority and is subject to inspection of its compliance with such standards, fails to furnish the relevant authority with records of its adult safeguarding risk assessment and a copy of the provider’s adult safeguarding statement, the relevant authority may, serve a notice in writing on the provider (in this section, referred to as a “warning notice”).

(2) A warning notice shall—

- (a) inform the provider of a relevant service of a failure to furnish records of a risk assessment and an adult safeguarding statement,
- (b) require the provider of a relevant service, within such period as specified in the notice, to furnish the relevant authority with a copy of the provider’s risk assessment and the provider’s adult safeguarding statement,
- (c) inform the provider of a relevant service that failure to furnish the relevant authority with the record of the risk assessment and adult safeguarding statement within the time specified in the notice may result in the provider being served with a notice of non-compliance with their obligations under *subsection (1)* (in this Part, referred to as a “non-compliance notice”), and

(d) inform the provider of a relevant service that he or she may make representations to the relevant authority in accordance with *subsection (3)*.

(3) A provider of a relevant service who is served with a warning notice may, not later than 14 days of the date of receipt of the notice, make representations in writing to the relevant authority in respect of the proposed non-compliance notice.

(4) The relevant authority shall have regard to any representations made to it under *subsection (3)* in assessing whether to proceed with the service of the non-compliance notice.

(5) The relevant authority shall, subject to *subsection (4)*, serve a non-compliance notice on a provider of a relevant service who fails to furnish the relevant authority with records of a risk assessment and an adult safeguarding statement within the period specified in the warning notice and the notice shall inform the provider concerned of the matters specified in *subsections (6) and (7)*.

(6) A non-compliance notice shall come into effect 21 days from the date of service of the notice unless an appeal is brought by the provider of a relevant service under *subsection (7)*.

(7) A provider of a relevant service who is served with a non-compliance notice may, not later than 21 days of the date of service of the notice, appeal the non-compliance notice to the District Court.

(8) The jurisdiction conferred on the District Court under this section shall be exercised by a judge of that court for the time being assigned to the District Court district in which the person on whom the non-compliance notice is served ordinarily resides or carries on any profession, business or occupation.

Register of non-compliance

71. (1) Each relevant authority shall establish and maintain a register of non-compliance notices (in this section, referred to as the “register of non-compliance”) in respect of the relevant services inspected by that relevant authority.

(2) As soon as may be after a non-compliance notice comes into effect pursuant to *section 70*, the relevant authority shall enter the particulars of the non-compliance notice on the register of non-compliance.

(3) Subject to *subsection (4)*, an entry made in respect of a non-compliance notice shall be removed from the register of non-compliance upon receipt by the relevant authority of the records of a risk assessment and adult safeguarding statement to which the entry relates or upon being satisfied that an adult safeguarding statement is no longer required, as may be appropriate, whichever is the earlier.

(4) A person who is the subject of a non-compliance notice may at any time apply to the relevant authority to have the entry concerned removed from the register of non-compliance and that body may, if it considers it appropriate to do so, remove the entry.

(5) The register of non-compliance shall be made available for inspection by members of the public at all reasonable times at the principal office of the relevant authority.

PART 8

ADULT SAFEGUARD REVIEWS

Definition (*Part 8*)

72. In this Part, “reviewing body” means [to be determined by the Government or the Oireachtas];

Adult Safeguarding Reviews

73. (1) The reviewing body shall, with a view to improving the safety, quality and standards of adult safeguarding services and subject to *subsection (3)*, undertake a review (in this section, referred to as an “adult safeguarding review”) where—

- (a) an adult at risk of harm—
 - (i) dies and abuse or neglect is known or suspected to be a factor in the death, or

(ii) does not die, but it is known or suspected that they experienced or are experiencing serious abuse or neglect, and

(b) an incident or series of incidents suggests that there have been serious and significant failings on behalf of one or more agencies, persons or individuals responsible for the care and protection of adults at risk of harm.

(2) The reviewing body may, subject to *subsection (3)*, undertake an adult safeguarding review if it considers it appropriate to do so—

(a) where the criteria in *subsection (1)* are not met, and

(b) where the reviewing body believes, based on reasonable grounds that an adult safeguarding review could provide material information regarding how the safety, quality and standards of adult safeguarding services provided by one or more agencies, persons or individuals can be improved to—

(i) protect and promote the health, safety and welfare of adults at risk of harm, and

(ii) minimise the risk of harm to adults at risk of harm.

(3) The reviewing body may decide not to undertake an adult safeguarding review under *subsection (1) or (2)*, or decide to discontinue or pause such a review, if—

- (a) the incident concerned is, or will be, subject to a review or investigation under any other enactment by another statutory body or officeholder under a statutory duty,
- (b) the reviewing body believes, based on reasonable grounds, that, due to the considerable length of time between the incident concerned occurring, and it deciding whether to undertake an adult safeguarding review, it is not necessary or appropriate to undertake a review,
- (c) the reviewing body believes, based on reasonable grounds, that the incident or the subject matter of the adult safeguarding review has already been resolved or substantially resolved,
- (d) the incident or the subject matter of the adult safeguarding review concerned is the subject of criminal proceedings, or

- (e) the incident or the subject matter of the adult safeguarding review concerned, is the subject of an investigation by the Garda Síochána.

(4) The reviewing body shall ensure that an adult safeguarding review undertaken under *subsection (1) or (2)* does not interfere, or conflict, with the functions of any statutory bodies or officer holders under a statutory duty.

Provisions on liability

74. (1) An adult safeguarding review undertaken in accordance with *section 73(1) or (2)* shall not—

- (a) consider or determine fault, or assign civil or criminal liability,
- (b) consider or determine whether any action should be taken in respect of an individual by any panel, committee, tribunal or professional regulatory body, or
- (c) be admissible as evidence of fault or liability in a court in relation to an incident that is subject to the adult safeguarding review under *section 73(1) or (2)*, or a clinical negligence action which arises (whether in whole or in part) from the consequences of that incident.

Powers of reviewing body

75. (1) For the purposes of undertaking an adult safeguarding review under *section 73(1) or (2)*, the reviewing body may—

- (a) direct any person to produce information or documents,
- (b) inspect and take copies of or extracts from and remove from any premises any documents or records (including personal records) relating to the adult safeguarding review, and
- (c) inspect the operation of any computer and any associated apparatus or material which is or has been in use in connection with the records in question,
- (d) interview in private any person—
 - (i) working in an agency, or person, responsible for the care and protection of adults at risk of harm, or
 - (ii) who at any time was or is in receipt of an adult safeguarding service and who consents to be interviewed.

(2) Where a person fails to comply, in part or in full, with a direction or requirement of the Safeguarding Body under *subsection (1)*, the body may, having regard to the extent of the failure to comply with the said requirement, by notice in writing inform the person concerned—

- (a) of the failure to comply in full with such requirement, and
- (b) if such non-compliance with the requirement remains for more than 5 days after the date of the notice, an application may be made to the Circuit Court for an order directing the person to comply in full with the requirement concerned.

(3) Where an application is made to the Circuit Court pursuant to *subsection (2)*, the court may make such order or orders as the circumstances may require.

Guidelines for reviewing body

76. (1) The Minister shall issue guidelines for the purposes of providing practical guidance to the review body in respect of the performance of its functions under this Part.

(2) Guidelines under this section shall include the procedures to be followed for adult safeguarding reviews under this Part, including, but not limited to, the following:

- (a) the principles underpinning reviews;
- (b) referral of serious incidents involving adults at risk of harm to the reviewing body;
- (c) the initiation of reviews, and notification requirements;
- (d) sharing of information regarding reviews;
- (e) the interface with parallel proceedings and other review mechanisms;
- (f) publication of review reports;
- (g) monitoring and evaluating actions and outcomes from reviews.

PART 9

COOPERATION

Definitions (*Part 9*)

77. In this Part—

“cooperate” includes sharing of documents and information (including statistical information);

“provider of a relevant service” means a provider of a relevant service, as defined in *section 4* and *Schedule 1*, other than a provider of the work or activity referred to in item 3 of *Schedule 1*;

“public service body” means—

- (a) the Child and Family Agency,
- (b) a Department of State,
- (c) the Director of the Decision Support Service,
- (d) the Garda Síochána,
- (e) An Ghníomhaireacht um Fhoréigean Baile, Gnéasach agus Inscnebhunaithe
- (f) the Health Service Executive,
- (g) the Health Information and Quality Authority,

- (h) the International Protection Accommodation Services, under the authority of the Minister for Children, Equality, Disability, Integration and Youth,
- (i) the Mental Health Commission,
- (j) An tÚdarás Póilíneachta agus Sábháilteachta Pobail, and
- (k) a body designated under *section 78* as a public service body;

Designation of public service body

78. (1) The Minister may by order designate a body, whether created by or under any enactment or not, as a public service body for the purposes of this Act.

(2) The Minister may make an order under *subsection (1)* where he or she is satisfied—

- (a) that some or all of the functions of the body concerned relate to safeguarding the health, safety or welfare of an adult at risk of harm, and

- (b) it is desirable that the body would cooperate with other public service bodies or providers of a relevant service to safeguard the health, safety or welfare of an adult at risk of harm.

(3) The Minister shall not make an order under *subsection (1)* in respect of a body for which a Minister of the Government other than the Minister has responsibility and in whom functions, whether statutory or otherwise, in respect of the body are vested, other than with the consent of that Minister of the Government.

Cooperation for performance of functions

79. (1) A public service body shall—

- (a) when requested by the Safeguarding Body to do so, cooperate with that body for the purpose of the performance of a function of the Safeguarding Body,
- (b) when requested by another public service body to do so, cooperate with that body for the purpose of the performance of a function of that body that relates to safeguarding the health, safety or welfare of an adult at risk of harm, and
- (c) when requested by a provider of a relevant service to do so, cooperate with that provider where the provider

is of the opinion, based on reasonable grounds, that there is a risk to the health, safety or welfare of an adult at risk of harm that is caused by abuse, neglect or ill-treatment.

(2) A provider of a relevant service shall—

- (a) when requested by the Safeguarding Body to do so, cooperate with that body for the purpose of the performance of a function of the Safeguarding Body,
- (b) when requested by a public service body to do so, cooperate with that body for the purpose of the performance of a function of that body that relates to safeguarding the health, safety or welfare of an adult at risk of harm, and
- (c) when requested by another provider of a relevant service to do so, cooperate with that provider where that provider is of the opinion, based on reasonable grounds, that there is a risk to the health, safety or welfare of an adult at risk of harm that is caused by abuse, neglect or ill-treatment.

PART 10

INTER-DEPARTMENTAL IMPLEMENTATION GROUP AND SECTORAL IMPLEMENTATION PLANS

Adult Safeguarding Inter-Departmental Implementation Group

80. As soon as may be after the commencement of this section, the Minister shall establish a group to be known as the Inter-Departmental Implementation Group (in this Act, referred to as the “Implementation Group”) to perform the functions assigned to it by this Act.

Membership of Implementation Group

81. (1) The Implementation Group shall consist of—

- (a) subject to *subsection (2)*, a chairperson, and
- (b) not less than 18 ordinary members,

each of whom shall be appointed by the Government to be a member of the Implementation Group.

(2) The Minister shall appoint an officer of the Minister to be the chairperson of the Implementation Group.

(3) The ordinary members of the Implementation Group shall be comprised as follows:

- (a) an officer of each relevant Minister of the Government, as appointed by the Government, nominated by the Minister of the Government having charge of the Department of State concerned;
- (b) a member of the Garda Síochána nominated by the Commissioner of the Garda Síochána;
- (c) an employee of the Health Service Executive nominated by the chief executive officer of that executive;
- (d) an employee of the Safeguarding Body nominated by the chief executive officer of that body.

(4) The Minister may at any time dissolve the Implementation Group.

Functions of Implementation Group

82. The functions of the Implementation Group shall be the following:

- (a) promote compliance by Departments of State with their obligations under this Act;

- (b) monitor compliance by public service bodies with their obligations under *section 79(1)*;
- (c) monitor the implementation by Departments of State of the guidelines issued by the Minister under *section 6*;
- (d) provide support to Departments of State in respect of the preparation and publication of sectoral implementation plans;
- (e) promote a consistent approach by Departments of State in respect of the preparation and publication of sectoral implementation plans;
- (f) report to the Minister, when requested by the Minister, on the implementation of this Act and of the guidelines issued by the Minister under *section 6*;
- (g) provide information or advice, or make proposals, to the Minister on matters relating to the functions of the Implementation Group referred to in *paragraphs (a) to (e)*.

Directions of Minister

83. (1) The Minister may give a direction in writing to the Implementation Group in relation to the performance by the Implementation Group of its functions under this Act, requiring it to comply with such policies of the Government as are specified in the direction.

(2) The Minister may, by direction in writing, amend or revoke a direction under this section (including a direction under this subsection).

(3) The Implementation Group shall comply with a direction given to it under this section.

Conditions and cessation of membership

84. (1) An appointment made under *section 81* shall, subject to the provisions of this Part, be on such terms and conditions as may be determined by the Minister.

(2) Without prejudice to the generality of *subsection (1)*, a person appointed by the Minister under *section 81* shall cease to be a member of the Implementation Group—

(a) where appointed under *subsection (3)(a)* of that section—

(i) if he or she ceases to be an officer of the Minister of the Government concerned, or

- (ii) at the request of that Minister of the Government,
- (b) where appointed under *subsection (3)(b)* of that section—
 - (i) if he or she ceases to be a member of the Garda Síochána, or
 - (ii) at the request of the Commissioner of the Garda Síochána,
- (c) where appointed under *subsection (3)(c)* of that section—
 - (i) if he or she ceases to be an employee of the Executive, or
 - (ii) at the request of the chief executive officer of the Executive, or
- (d) where appointed under *subsection (3)(d)* of that section—

- (i) if he or she ceases to be an employee of the Safeguarding Body, or
- (ii) at the request of the chief executive officer of the Safeguarding Body.

(3) If a member of the Implementation Group dies or ceases to be a member of the Group, the Minister may appoint a person to be a member of the Implementation Group to fill the vacancy so occasioned in the same manner as the member of the Implementation Group who occasioned the vacancy was appointed.

Meetings and procedures

85. (1) The Implementation Group shall hold such and so many meetings as may be necessary for the performance of its functions and may, subject to this Part, make such arrangements for the conduct of its meetings and business as it considers appropriate.

(2) The quorum for a meeting of the Implementation Group shall be 8.

(3) Subject to *subsection (2)*, the Implementation Group may act notwithstanding one, or more than one, vacancy among its membership.

(4) At a meeting of the Implementation Group—

- (a) the chairperson of the Implementation Group shall, if present, be the chairperson of the meeting, or
- (b) if and so long as the chairperson of the Implementation Group is not present, or if that office is vacant, the members of the Implementation Group who are present shall choose one of their number to be the chairperson of the meeting.

Reports

86. (1) The Implementation Group shall, not later than 30 June of each calendar year, prepare and submit to the Minister a report on the performance of its functions and activities during the preceding year or, in the case of the first such report, its functions and activities since the date it was established up to and including 31 December of the preceding year.

(2) The Minister shall, as soon as may be after receiving the report under *subsection (1)*, cause a copy of it to be laid before each House of the Oireachtas.

(3) A report under *subsection (1)* shall be in such form as the Minister may approve and shall include information in such form and regarding such matters as the Minister may from time to time direct.

(4) The Implementation Group shall supply, when required by the Minister to do so, a report on any matter connected with the functions of the Implementation Group as may be specified by the Minister.

(5) A report under *subsection (4)* shall be in such form and shall be made within such period as the Minister may specify.

Sectoral implementation plans

87. (1) The Government shall appoint Ministers of the Government, as soon as may be after the commencement of this section, to prepare and publish a plan (in this Act, referred to as a “sectoral implementation plan”) in relation to the matters referred to in *subsection (2)* outlining the programme of measures taken or proposed to be taken by or on behalf of the Minister concerned to ensure that—

- (a) the Department of State concerned and public service bodies under its aegis, and
- (b) any body that provides a relevant service and receives funding from the Department concerned in that regard,

complies with this Act and of the guidelines issued by the Minister under *section 6*.

(2) A sectoral implementation plan shall contain information concerning—

- (a) services provided by or on behalf of the Department of State concerned,
- (b) measures taken or proposed to be taken to promote, review and report on compliance with this Act and of the guidelines issued by the Minister under *section 6*,
- (c) monitoring and review procedures in relation to the subject matter of the plan, and
- (d) such other matters (if any) as the Minister of the Government concerned considers appropriate.

(3) Any plan that has been published by a Minister of the Government before the commencement of this section and in relation to the matters referred to in *subsection (2)* that is in force immediately before such commencement, shall be deemed, on such commencement, to be a sectoral implementation plan prepared and published by that Minister under *subsection (1)*.

(4) As soon as may be after the preparation of a sectoral implementation plan or, in the case of a sectoral implementation plan to which *subsection (3)* applies, as soon as may be after the commencement of this section, the Minister of the Government concerned shall cause copies of the plan to be laid before each House of the Oireachtas.

(5) Each Minister of the Government shall review and, if appropriate, revise a sectoral implementation plan and publish a sectoral implementation plan as revised—

- (a) not later than 3 years, or such other period as may be determined by the Minister, from the date of publication of that plan in accordance with this section or, in the case of a sectoral implementation plan to which *subsection (3)* applies, the date of the commencement of this section, and
- (b) not later than 3 years, or such other period as may be determined by the Minister, from the date of the last review of that plan under this section.

(6) A sectoral implementation plan prepared by a Minister of the Government under *subsection (1)* may be amended by another sectoral implementation plan prepared by that Minister.

PART 11

INFORMATION SHARING

Information sharing between relevant bodies to safeguard health, safety or welfare of adults at risk of harm

88. (1) In this section—

“data concerning health” has the meaning given to it in Article 4 of the General Data Protection Regulation;

“General Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016¹ on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC;

“information” means information, including personal data and special categories of personal data, pertaining to the health, safety or welfare of an adult at risk of harm;

“Minister” means the Minister for Justice or [other Minister of the Government, as determined by the Government and the Oireachtas];

“personal data” has the meaning given to it in Article 4 of the General Data Protection Regulation;

“relevant body” means one of the following:

- (a) the Child and Family Agency;
- (b) a Department of State;

¹ OJ No L 119, 04.05.2016, p. 1.

- (c) the Garda Síochána;
- (d) the Health and Social Care Professionals Council;
- (e) the Health Information and Quality Authority;
- (f) the Health Service Executive;
- (g) a body or office established under adult safeguarding legislation to perform the functions conferred on it, by or under this Act or any other enactment, whether on a permanent or temporary basis as determined by the Government and the Oireachtas;
- (h) the Mental Health Commission;
- (i) a designated centre for the purposes of the Act of 2007;
- (j) an agency in receipt of funding pursuant to section 38 or 39 of the Act of 2004;
- (k) an approved centre for the purposes of the Mental Health Act 2001;
- (l) a local authority within the meaning of the Local Government Act 2001;
- (m) a local community development committee established pursuant to section 49A of the Local Government Act 2001;

- (n) a local community safety partnership established pursuant to the Policing, Security and Community Safety Act 2024;
- (o) any other person or public or private body or group that the Minister may prescribe by regulations pursuant to *subsection (10)(a)*,

insofar as one or more of their functions relate to safeguarding the health, safety or welfare of an adult at risk of harm;

“request for information” means a request in writing or by electronic means from a relevant body to another relevant body for information;

“special categories of personal data” shall be construed in accordance with the General Data Protection Regulation and includes data concerning health.

(2) A relevant body may make a request for information to another relevant body.

(3) In order to make a request for information to another relevant body pursuant to *subsection (2)*, a relevant body shall satisfy one, or more, of the following conditions:

- (a) the sharing of the information is necessary in the public interest to safeguard the health, safety or welfare of an adult at risk of harm;

- (b) the prior consent of an adult at risk of harm cannot reasonably be expected to be obtained;
 - (c) the nature and volume of the information requested is necessary and proportionate to the aim of safeguarding the health, safety or welfare of an adult at risk of harm;
 - (d) suitable and specific measures are, or will be, provided to safeguard the fundamental rights and interests of an adult at risk of harm which may include, but are not limited to, the measures contained in section 36(1) of the Data Protection Act 2018.
- (4) The relevant body making the request for information shall—
- (a) specify the public interest served by sharing the information, and
 - (b) have regard to the following:
 - (i) the nature of the substantial public interest to safeguard the health, safety or welfare of the adult at risk of harm;
 - (ii) any benefits likely to arise for the adult at risk of harm;
 - (iii) any risks, including their likelihood and severity, arising for the rights and freedoms of the adult at risk of harm.

(5) A relevant body that receives a request for information pursuant to *subsection (2)* that is made in accordance with *subsections (3) and (4)* shall—

- (a) comply with such a request, and
- (b) only share such information that is necessary and proportionate to the aim of safeguarding the health, safety or welfare of the adult at risk of harm.

(6) A relevant body shall not, in discharging the obligation under *subsection (5)*, be required to share information that it would be entitled to refuse to share on the grounds of legal professional privilege.

(7) No action shall lie against a relevant body that acts in accordance with *subsection (6)*.

(8) A relevant body may share information with another relevant body if the following conditions are met:

- (a) the sharing of the information is necessary in the public interest to safeguard the health, safety or welfare of the adult at risk of harm;
- (b) the prior consent of the adult at risk of harm cannot reasonably be expected to be obtained;
- (c) the nature and volume of the information shared is necessary and proportionate to the aim of safeguarding the health, safety or welfare of the adult at risk of harm;
- (d) suitable and specific measures are, or will be, provided to safeguard the fundamental rights and interests of the

adult at risk of harm which may include, but are not limited to, the measures contained in section 36(1) of the Data Protection Act 2018.

(9) Where a relevant body shares information pursuant to *subsection (8)*, it shall—

(a) specify the public interest served by sharing the information, and

(b) have regard to the following:

(i) the nature of the substantial public interest to safeguard the health, safety or welfare of the adult at risk of harm;

(ii) any benefits likely to arise for the adult at risk of harm;

(iii) any risks, including their likelihood and severity, arising for the rights and freedoms of the adult at risk of harm.

(10) The Minister may prescribe the following by regulations:

(a) a person or public or private body or group as a relevant body for the purposes of this section;

(b) a form for the making of a request for information in accordance with this section.

SCHEDULE 1

RELEVANT SERVICES

Sections 4 & 77

1. Any work or activity which is carried out by a person, a necessary and regular part of which consists mainly of a person having access to, or contact with, adults, or adults who are, may be or may become adults at risk of harm, in one, or more, of the following:

- (a) a designated centre within the meaning of section 2(1) of the Act of 2007, insofar as it relates to an institution wherein residential services are provided to older people or to adults with disabilities;
- (b) a service that provides care to adults in private dwellings;
- (c) a service that provides day services to adults with disabilities;
- (d) a service that provides day services to older people;
- (e) a service that provides personal assistance to adults with disabilities;

- (f) any hospital, hospice, health care centre or other centre which receives, treats or otherwise provides physical services to adults;
- (g) a service that receives, treats or provides mental health services to adults, including approved centres under the Mental Health Act 2001;
- (h) a reception or accommodation centre which provides residential accommodation services to adults in the international protection process managed by, or under contract to, the Department of Children, Equality, Disability, Integration and Youth;
- (i) a centre which provides refuge accommodation services for victims of domestic, sexual or gender-based violence;
- (j) a centre which provides residential accommodation services for the purpose of providing substance misuse services;
- (k) a centre which provides residential accommodation services to adults experiencing homelessness;
- (l) a service that provides treatment (including assessment which may lead to treatment), therapy or counselling to an adult;

2. Any work or activity as a driver of, or as an assistant to the driver, or as a conductor, or as a supervisor of adults using a vehicle which is being hired or used only for the purpose of conveying adults to or from day services, or respite services, and related activities of such services;

3. Any work or activity which is carried out by a member of the Garda Síochána, a necessary and regular part of which consists mainly of the person having access to, or contact with, adults who may be at risk of harm or vulnerable persons within the meaning of section 2 of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012.

SCHEDULE 2

MANDATED PERSONS

Sections 21 & 27

1. A registered medical practitioner within the meaning of section 2 of the Medical Practitioners Act 2007.

2. A registered nurse or registered midwife within the meaning of section 2(1) of the Nurses and Midwives Act 2011.

3. A physiotherapist registered in the register of members of that profession.

4. A speech and language therapist registered in the register of members of that profession.

5. An occupational therapist registered in the register of members of that profession.

6. A registered dentist within the meaning of section 2 of the Dentists Act 1985.

7. A registered pharmacist registered in the register of members of that profession.

8. A psychologist who practises as such and who is eligible for registration in the register (if any) of members of that profession.

9. A social care worker who practises as such and who is eligible for registration in accordance with Part 4 of the Act of 2005 in the register of that profession.

10. A social worker who practises as such and who is eligible for registration in accordance with Part 4 of the Act of 2005 in the register (if any) of that profession.

11. An emergency medical technician, paramedic and advanced paramedic registered with the Pre-Hospital Emergency Care Council under the Pre-Hospital Emergency Care Council (Establishment) Order 2000 (S.I. No. 109 of 2000).

12. A probation officer within the meaning of section 1 of the Criminal Justice (Community Service) Act 1983.

13. A member of the Garda Síochána.

14. A person employed in any of the following capacities:

- (a) as a manager of a day service for adults;

- (b) as a manager of a professional home support provider;
- (c) as a manager of a centre which provides refuge accommodation services for victims of domestic, sexual or gender-based violence;
- (d) as a manager of a homeless provision or emergency accommodation facility;
- (e) as a manager of accommodation centres for people seeking international protection (direct provision);
- (f) as a manager of an addiction or substance misuse service;
- (g) as an addiction counsellor employed by a body funded, wholly or partly, out of moneys provided by the Oireachtas;
- (h) as a psychotherapist or a person providing counselling who is registered with one of the voluntary professional bodies;
- (i) as a safeguarding officer or other person (howsoever described) who is employed for the purpose of performing the adult safeguarding function of religious, sporting, advocacy, charitable, recreational, cultural, educational and other bodies and persons offering services to adults, who may include adults at risk of harm.

15. A decision-making supporter appointed from a panel established by the Director of the Decision Support Service for the purposes of Act of 2015.