

Draft Regulations laid before the Assembly under section 26(7) of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021, for approval

DRAFT STATUTORY RULES OF NORTHERN IRELAND

2022 No. 0000

JUSTICE

**The Domestic Abuse Information-sharing with
Schools etc. Regulations (Northern Ireland) 2022**

Laid before the Assembly in draft

Made - - - - 00th March 2022

Coming into operation in accordance with Regulation 1

The Department for Justice, in exercise of the powers conferred by section 26 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021(1), makes the following Regulations.

Citation and commencement

1. These Regulations may be cited as the Domestic Abuse Information-sharing with Schools etc. Regulations (Northern Ireland) 2022 and shall come into operation on 1st April 2022.

Interpretation

2. In these Regulations—

“abusive behaviour” has the meaning given by section 2 of the Act;

“the Act” means the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021;

“compulsory school age” has the meaning given by Article 46 of the 1986 Order;

“child” means a pupil or a student within the meaning of this paragraph;

“class teacher” for the purposes of these Regulations means persons of the following description at an education provider—

- (a) classroom assistant;
- (b) course instructor including any substitute;
- (c) lecturer including any substitute;
- (d) member of teaching staff including any substitute;
- (e) relevant support staff;

“a designated person” means—

- (a) the key adult safeguarding lead or deputy at an education provider;
- (b) the designated child protection officer or deputy at an education provider;
- (c) the designated safeguarding officer or deputy at an education provider; and
- (d) any other person at an education provider acting in an equivalent capacity to those persons described at paragraphs (a) to (c);

“the Education Authority” means the body established by section 1(1) of the Education Act (Northern Ireland) 2014⁽²⁾ and for the purposes of these Regulations refer to staff carrying out a child protection or safeguarding function;

“the Education Orders” has the meaning given by Article 2(2) of the 1986 Order;

“an education provider” means—

- (a) a school (which includes a nursery school) within the meaning of Article 2(2) of the 1986 Order;
- (b) an institution of further education within the meaning of Article 2(2) of the Further Education (Northern Ireland) Order 1997⁽³⁾;
- (c) a non-school body which provides pre-school education (or any facility or setting at which pre-school education is provided);
- (d) the College of Agriculture, Food and Rural Enterprise in Northern Ireland;
- (e) any body or facility folding a contractual relationship with the Department for the Economy for the purposes of providing publically funded vocational training programmes or apprenticeships; and
- (f) any other body or facility which provides education or training of any kind (or any facility or setting at which education or training of any kind is provided);

“an incident of domestic abuse concerning a child” has the meaning set out in Regulation 4;

“pre-school education” has the meaning given by Article 17(8) of the Education (Northern Ireland) Order 1998⁽⁴⁾;

“pupil” means a person—

- (a) aged under compulsory age who is registered in their immediate pre-school year for a funded pre-school education place; or
- (b) who—
 - (i) has achieved compulsory age;
 - (ii) is aged under eighteen years;
 - (iii) is registered at an education provider; and
 - (iv) in respect of whom education is provided under the Education Orders at an education provider;

“a relevant incident” means—

- (a) any police recorded incident of domestic abuse which a relevant person reasonably believes constitutes an incident of domestic abuse concerning a child, or
- (b) any incident (including a potential incident) involving domestic abuse which comes to the attention of a relevant person, which the relevant person reasonably believes constitutes an incident of domestic abuse concerning a child;

(2) 2014 c. 12 (N.I.)

(3) S.I. 1997/1772 (N.I. 15)

(4) S.I. 1998/1759 (N.I. 13)

“a relevant person” means a police officer or police support staff within the meaning of the Police (Northern Ireland) Act 2000⁽⁵⁾;

“relevant support staff” means any person at an education provider, other than a class teacher, who—

- (a) acts in a pastoral care role;
- (b) acts in a disability support role; or
- (c) is a member of education and training and support staff;

“student” means aged over compulsory school age but under 18 years and who is—

- (a) registered at a recognised institution of further education within the meaning of Article 2(2) of the Further Education (Northern Ireland) Order 1997;
- (b) registered at the College of Agriculture, Food and Rural Enterprise in Northern Ireland; or
- (c) registered on a publically funded vocational training programme or apprenticeship provided by a body holding a contractual relationship with the Department for the Economy at any facility or setting in Northern Ireland;

“the 1986 Order” means the Education and Libraries (Northern Ireland) Order 1986⁽⁶⁾.

Disclosure of information by a relevant person to a designated person

3.—(1) A relevant person may disclose information to a designated person where—

- (a) there has been a relevant incident; and
- (b) they reasonably believe that such disclosure is necessary for the purposes of enabling the designated person to—
 - (i) effectively take account of the needs of the child, and any impact that the incident may have had on them; and
 - (ii) provide support to that child, where appropriate.

(2) For the purposes of paragraph (1) “information” means—

- (a) the date, location and approximate time of the incident;
- (b) the nature of the incident;
- (c) the severity of the incident, where relevant;
- (d) the name and date of birth of the child that the incident concerned and their usual address, where different from the location of the incident;
- (e) who the incident involved and their relationship, if any, to the child;
- (f) information about whether or not the child was present, or in the immediate vicinity of where the incident occurred, and if in the home, where the child was in the home;
- (g) information about where a child was neither present or in the vicinity of the incident but by reason of being present at the scene shortly afterwards (for example) perceived the aftermath; and
- (h) such other information relating to the incident as the relevant person reasonably believes is necessary for the purposes mentioned in paragraph (1)(b).

(5) 2000 c. 32 (N.I.)

(6) S.I. 1986 No. 594 (N.I. 13)

Meaning of incident of domestic abuse concerning a child

4.—(1) An incident of domestic abuse concerning a child means any incident (including a potential incident) involving domestic abuse where the five listed conditions set out at paragraph (2) are met.

(2) The listed conditions are that—

- (a) a person (“A”) may have engaged in abusive behaviour of another person (“B”);
- (b) a reasonable person would consider such behaviour to be likely to cause B to suffer physical or psychological harm;
- (c) A, having engaged in that behaviour—
 - (i) may have intended to cause B to suffer physical or psychological harm, or
 - (ii) may have been reckless as to whether or not B would suffer physical or psychological harm;
- (d) A and B are personally connected to each other at the time; and
- (e) the incident concerns a child.

(3) For the purposes of paragraphs (2)(a) to (c) it is irrelevant whether or not the behaviour in question—

- (a) was actually carried out against B;
- (b) actually caused B to suffer harm of the relevant sort; or
- (c) resulted in a charge, summons or the commission of an offence involving A and B.

(4) For the purposes of paragraph (2)(d) personally connected shall be construed in accordance with section 5 of the Act.

(5) For the purposes of paragraph (2)(e) an incident concerns a child if—

- (a) A is a child (unless A has parental responsibility for B and B is under 16 years of age);
- (b) B is a child (unless A has parental responsibility for B and B is under 16 years of age);
- (c) A directed, or threatened to direct, behaviour at a child who is not B;
- (d) A made use of a child in directing behaviour at B;
- (e) a child who is not A or B saw, heard, or was present at the time of the incident during which A directed behaviour at B; or
- (f) a reasonable person would consider the behaviour to be likely to adversely affect a child, except where that child has parental responsibility in the circumstances outlined in sub paragraph (a) or is under 16 years of age in the circumstances outlined in sub paragraph (b).

(6) For the purposes of paragraph (5)(c) to (f) there does not need to be evidence that a child—

- (a) has ever had any awareness or understanding of A’s behaviour, or
- (b) has ever been adversely affected by A’s behaviour.

Other disclosure of information

5.—(1) In the circumstances set out in paragraph (2) the information set out in paragraph (3) may be shared by a designated person with a relevant person.

(2) The circumstances mentioned in paragraph (1) are that—

- (a) there has been a relevant incident and a relevant person has disclosed information to a designated person in accordance with Regulation 3;
- (b) a child has disclosed information to a designated person suggesting that an incident of domestic abuse concerning a child may have occurred; or

- (c) a class teacher has disclosed information to a designated person in the circumstances outlined in paragraphs (7), (8) and (9).
- (3) The information mentioned in paragraph (1) is any information which the designated person reasonably believes is necessary in the interests of safeguarding the health and well-being of the child.
- (4) In the circumstances set out in paragraph (5) the information set out in paragraph (6) may be shared between the Education Authority and a relevant person.
- (5) The circumstances mentioned in paragraph (4) are—
 - (a) there has been a relevant incident; and
 - (b) a relevant person requires confirmation of the identity of a child’s education provider in order to disclose information to a designated person under Regulation 3.
- (6) The information mentioned in paragraph (4) is—
 - (a) any information reasonably required by the Education Authority to enable it to identify the education provider at which the child is registered; and
 - (b) the identity of the education provider at which the child is registered.
- (7) In the circumstances set out in paragraph (8) the information set out in paragraph (9) may be shared between a designated person and a class teacher.
- (8) The circumstances mentioned in paragraph (7) are—
 - (a) there has been a relevant incident and a relevant person has disclosed information to a designated person in accordance with Regulation 3;
 - (b) a child has disclosed information to a designated person or a class teacher suggesting that an incident of domestic abuse concerning a child may have occurred as provided for in Regulation 4(1).
- (9) The information mentioned in paragraph (7) is—
 - (a) the information disclosed by the child to the class teacher or designated person;
 - (b) any information received by the designated person from a relevant person under Regulation 3(1)(b), which the designated person reasonably believes needs to be shared with the class teacher to enable the class teacher to:
 - (i) effectively take account of the needs of the child, and any impact that the incident may have had on them, and
 - (ii) provide support to that child, where appropriate; and
 - (c) any other information which the class teacher or designated person reasonably believes is necessary to enable each of them to:
 - (i) effectively take account of the needs of the child, and any impact that the incident may have had on them, and
 - (ii) provide support to that child, where appropriate.

Unauthorised disclosure of information

- 6.—(1) A person to whom paragraph (2) applies is guilty of an offence if the person discloses without lawful authority any information—
- (a) which is, or is derived from, information provided under Regulation 3 or 5; and
 - (b) which relates to a particular person.
- (2) This paragraph applies to—

- (a) any person who is a relevant person, a designated person, a class teacher or the Education Authority; and
 - (b) any other person who uses any information which he knows has been disclosed in contravention of these Regulations or discloses such information to another person.
- (3) It is a defence for a person charged with an offence under this Regulation to show that at the time of the alleged offence—
- (a) they believed that the disclosure in question was made with lawful authority and had no reasonable cause to believe otherwise; or
 - (b) they believed that the information in question had previously been disclosed to the public with lawful authority and had no reasonable cause to believe otherwise.
- (4) A person who is guilty of an offence under this Regulation is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (5) For the purposes of this Regulation a disclosure of information by a person is to be regarded as made with lawful authority if, and only if, it is made—
- (a) in the course of and for the purposes of that person’s employment where that person is a relevant person, a designated person, a class teacher or the Education Authority;
 - (b) in accordance with these Regulations;
 - (c) in accordance with any other statutory provision or order of a court;
 - (d) for the purposes of any civil or criminal proceedings howsoever arising; or
 - (e) with the consent of the person to whom the information relates.

Sealed with the Official Seal of the Department of Justice on 00th March 2022

(L.S.)

Naomi Long
Minister of Justice

EXPLANATORY NOTE

(This note is not part of the Regulations)

This Statutory Rule is made under section 26 of the Domestic Abuse and Civil Proceedings (Northern Ireland) Act 2021⁽⁷⁾ and enables information to be shared from the police to an education provider about an incident of domestic abuse concerning a child who is a pupil or a student of that provider.

⁽⁷⁾ 2021 c. 2 (N.I.)