

Subsidiary Legislation made under s.44.

Domestic Abuse Information-Sharing with Schools Etc. Regulations 2023

LN.2023/186

Commencement **6.7.2023**

ARRANGEMENT OF REGULATIONS

Regulation

1. Title.
2. Commencement.
3. Interpretation.
4. Disclosure of information by a police officer to a designated person.
5. Meaning of incident of domestic abuse concerning a child.
6. Other disclosure of information.
7. Unauthorised disclosure of information.

2023-06

Domestic Abuse

**2023/186 Domestic Abuse Information-Sharing with Schools Etc.
Regulations 2023**

In exercise of the powers conferred upon her by section 44 of the Domestic Abuse Act 2023, the Minister with responsibility for justice has made these Regulations -

Title.

1. These Regulations may be cited as the Domestic Abuse Information-Sharing with Schools Etc. Regulations 2023.

Commencement.

2. These Regulations come into operation on the day of publication.

Interpretation.

3. In these Regulations –

“abusive behaviour” has the meaning given by section 6(3) of the Act;

“the Act” means the Domestic Abuse Act 2023;

“compulsory school age” has the meaning given by the Education and Training Act;

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

“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) member of teaching staff including any substitute;
- (d) 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; and
- (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 Department of Education” means the body established by section 7(2) of the Education and Training Act;

“an education provider” means –

- (a) a school (which includes a nursery school) within the meaning of section 2 of the Education and Training Act;
- (b) the College of Further Education established under the Education and Training Act;
- (c) a non-school body which provides pre-school education;
- (d) anybody 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 5;

“pre-school education” means education provided for a child (whether at a school or any other premises) at any time-

- (a) after he has attained the age of 3 years; and
- (b) before he has attained compulsory school age;

“pupil” has the meaning given in section 2 of the Education and Training Act;

“a relevant incident” means –

- (a) any police recorded incident of domestic abuse which a police officer 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 police officer, which the police officer reasonably believes constitutes an incident of domestic abuse concerning a child;

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

2023-06

Domestic Abuse

**2023/186 Domestic Abuse Information-Sharing with Schools Etc.
Regulations 2023**

- (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 a person aged over compulsory school age but under 18 years and who is registered at the College of Further Education.

Disclosure of information by a police officer to a designated person.

4.(1) A police officer 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 subregulation (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;
- (h) such other information relating to the incident as the police officer reasonably believes is necessary for the purposes mentioned in subregulation (1)(b).

Meaning of incident of domestic abuse concerning a child.

5.(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 subregulation (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 subregulation (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.

2023-06

Domestic Abuse

**2023/186 Domestic Abuse Information-Sharing with Schools Etc.
Regulations 2023**

(4) For the purposes of subregulation (2)(d) personally connected shall be construed in accordance with section 3(7) of the Act.

(5) For the purposes of subregulation (2)(e) an incident concerns a child if-

- (a) A directed, or threatened to direct, behaviour at a child who is not B;
- (b) A made use of a child in directing behaviour at B;
- (c) 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
- (d) a reasonable person would consider the behaviour to be likely to adversely affect a child.

(6) For the purposes of subregulation 5(a) to (d) 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.

6.(1) In the circumstances set out in subregulation (2) the information set out in subregulation (3) may be shared by a designated person with a police officer.

(2) The circumstances mentioned in subregulation (1) are that-

- (a) there has been a relevant incident and a police officer has disclosed information to a designated person in accordance with regulation 4;
- (b) a child has disclosed information to a designated person suggesting that an incident of domestic abuse concerning a child may have occurred;
- (c) a class teacher has disclosed information to a designated person in the circumstances outlined in subregulations (7), (8) and (9).

(3) The information mentioned in subregulation (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 subregulation (5) the information set out in subregulation (6) may be shared between the Department of Education and a police officer.

(5) The circumstances mentioned in subregulation (4) are –

- (a) there has been a relevant incident; and
- (b) a police officer requires confirmation of the identity of a child’s education provider in order to disclose information to a designated person under regulation 4.

(6) The information mentioned in subregulation (4) is –

- (a) any information reasonably required by the Department of Education 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 subregulation (8) the information set out in subregulation (9) may be shared between a designated person and a class teacher.

(8) The circumstances mentioned in subregulation (7) are –

- (a) there has been a relevant incident and a police officer has disclosed information to a designated person in accordance with regulation 4;
- (b) a child has disclosed information to a designated person or a class teacher suggesting an incident of domestic abuse concerning a child may have occurred as provided for in regulation 5(1).

(9) The information mentioned in subregulation (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 police officer under regulation 4(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

2023-06

Domestic Abuse

**2023/186 Domestic Abuse Information-Sharing with Schools Etc.
Regulations 2023**

- (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 to 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.

7.(1) A person to whom subregulation (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 4 or regulation 6; and
- (b) which relates to a particular person.

(2) This subregulation applies to-

- (a) any person who is a police officer, a designated person, a class teacher or the Department of Education; and
- (b) any other person who uses any information which he or she 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 police officer, a designated person, a class teacher or the Department of Education;
- (b) in accordance with these Regulations;
- (c) in accordance with any other statutory provision or order of a court;
- (d) for the purposes of criminal or civil proceedings howsoever arising;
- (e) with the consent of the person to whom the information relates.