

SUBSIDIARY LEGISLATION 602.01**CHILDREN'S HOUSE REGULATIONS**

1st January 2022

LEGAL NOTICE 467 of 2021.

ARRANGEMENT OF REGULATIONS

Preliminary	1-4
Of the Manager (Children's House)	5-8
Of Other Officers of the Children's House	9
Of the Investigative Interview	10-24
Of Interpreters and Assisting Professionals	25
Of the Storing of Data	26-29
Of the Medical Examination	30-33
Of the Therapeutic Support to the Referred Minor	34-38
Of Offences	39-42
Miscellaneous	43-44

PRELIMINARY

1. The title of these regulations is the Children's House Regulations. Citation.
2. The meanings set out in article 2 of the Minor Protection (Alternative Care) Act, hereinafter referred to as "the Act", shall be applicable to these regulations. Interpretation. Cap. 602.
3. (1) There shall be at least one place prescribed by the Minister to serve as the Children's House in Malta with the aim of providing a child-friendly, safe and calm environment for children victims and, or witnesses of significant harm, as defined in article 9(4) of the Act, to give their testimony and subsequently receive the necessary support to meet their best interests. Aim of Children's House.
- (2) The place mentioned in the previous sub-regulation shall be "The Children's House" located at Santa Venera.
4. Children victims and, or witnesses under the age of eighteen (18) years are to be presumed as having sufficient understanding to be forensically interviewed and subsequently to receive support service, even if these have to be tailored to cater for the child's age and, or needs unless the contrary is established by the professionals working with the child or unless the child is too young to be communicative or it is clear that this is against the child's best interests and, or wellbeing. Children victims and, or witnesses.

OF THE MANAGER (CHILDREN'S HOUSE)

Manager
(Children's
House).

5. The Children's House shall be run by a Manager (Children's House) who is an officer of the Director (Child Protection) and shall exercise his functions in terms of article 4 of the Act:

Provided that the Manager (Children's House) and his officers shall at all times act in an impartial manner in the exercise of their functions.

Functions may be
carried out by
Director (Child
Protection).

6. When the circumstances of a specific case require it, all functions given to the Manager (Children's House) may be exercised by the Director (Child Protection).

Functions of the
Manager
(Children's
House).

7. Without prejudice to the functions as may be given to the Manager by the Act or subsequent regulations, the Manager (Children's House) shall:

(a) convene a meeting prior to an investigative interview to establish the aims and purposes of the interview and the needs of the minor;

(b) appoint a forensic interviewer to conduct an investigative interview with a referred minor;

(c) liaise with the paediatric specialist so that the minor may undergo a medical examination if this is deemed necessary owing to the nature of the suspicions or knowledge of significant harm suffered by the minor;

(d) convene stakeholders for the investigative interview;

(e) monitor the investigative interview with the referred minor;

(f) collect, retain, store and dispose of data collected from each interview according to the provisions of other applicable law and according to these regulations;

(g) prepare the data and communicate it to the competent court for use in on-going proceedings;

(h) liaise with the psychologist working at the Children's House to conduct an assessment on the interviewed minor to determine the minor's needs for therapeutic support;

(i) allocate support services to the interviewed minors and their families or make referrals to outside services according to the results of the assessment;

(j) participate in the interdisciplinary meetings held

by the Director (Child Protection) in terms of article 6 of the Act;

(k) provide initial and on-going training to his officers and service providers.

8. The legal and judicial representation of the Children's House shall vest in the Manager (Children's House). Legal and judicial representation.

OF OTHER OFFICERS OF THE CHILDREN'S HOUSE

9. The Manager (Children's House) shall be assisted in the carrying out of his functions and responsibilities by other officers of the Children's House, namely: Other officers of the Children's House.

(a) forensic interviewers who shall be warranted professionals having received specific training on interviewing children forensically, whose functions and responsibilities shall be to conduct the investigative interview with the referred minor;

(b) a warranted and registered psychologist according to the Psychology Profession Act with preference being given to persons having at least five (5) years experience working with children, whose functions and responsibilities shall be to conduct assessments on referred minors to identify the therapeutic needs of the minor and to make recommendations on the best therapeutic services to be offered to the minor: Cap. 471.

Provided that this psychologist may also manage a small team of psychologists, when the needs so demand, and the other team members shall exercise and perform such functions and responsibilities as delegated or assigned to them, and shall hold therapeutic sessions with the minor in terms of these regulations;

(c) a paediatric specialist being a medical specialist registered in the specialist register for the paediatric field according to the Health Care Professions Act; Cap. 464.

(d) administrative support workers for the carrying out of duties as assigned to him by the Manager (Children's House) in the daily administration of the Children's House and the holding of meetings;

(e) security officers whose functions and responsibilities shall be to maintain order, peace and quiet during the daily running of the Children's House, to maintain a sense of safety at all times by taking the required legal action when any person acts aggressively inside or outside in the parameters of the Children's House.

OF THE INVESTIGATIVE INTERVIEW

- Referral to the Children's House. **10.** Whenever the Executive Police in the course of their investigation into alleged crimes, Members of the Judiciary in the course of court proceedings and officers of the Directorate (Child Protection) in the course of their investigation in terms of article 10 of the Act, require a minor victim and, or witness to be forensically interviewed, they shall send a referral of the case to the Manager (Children's House) who shall always keep a record of such referral in a Register.
- Action on referral. **11.** (1) The Manager (Children's House) shall, without delay but in any case not later than five (5) working days, decide whether the referral has been made in terms of these regulations. When it results that it is not the case, the Manager (Children's House) shall reply to the referring entity in writing giving reasons for such rejection.
- (2) When the Manager (Children's House) deems the referral to have been made in terms of these regulations, he shall appoint a forensic interviewer and shall set a date for the initial meeting of the interdisciplinary team to set the aims and purposes of the interview which meeting is to be held by not later than five (5) working days. The Manager (Children's House) may invite all those professionals involved in the case or that have a contribution to make to such meeting.
- Confidentiality of the meeting. **12.** Minutes of the preliminary meeting shall be taken by an administrative support worker at the Children's House and stored according to these regulations. Every person attending such meeting shall be bound by confidentiality and may not disclose to third parties any information or provide documents or extracts thereof which may have come to their knowledge or in their possession during such meeting or as a result thereof unless such disclosure or provision is made following an authorisation, request or order by a competent court.
- Aims of the preliminary meeting. **13.** In the preliminary meeting, the Manager (Children's House) shall:
- (a) inform the interdisciplinary team of professionals of the information at hand on the referred minor;
 - (b) discuss the possible outcomes that may result from the investigative interview;
 - (c) discuss the best procedure to be adopted for the investigative interview;
 - (d) establish who shall be present on the day of the investigative interview;

(e) establish who shall have access to the records of the investigative interview;

(f) establish if there are any particular needs of the minor that need the adaptation of the protocol to be catered for during the investigative interview;

(g) determine whether a paediatric examination of the referred minor needs to take place before or after the investigative interview;

(h) establish the date and time of the investigative interview;

(i) determine the best way to have the referred minor arrive at the Children's House;

14. The forensic interviewer shall conduct himself in an impartial manner at all times and shall endeavour to carry out the investigative interview in a diligent manner according to established and adopted investigative interviewing protocols.

The forensic interviewer.

15. On the day of the investigative interview, the interdisciplinary team shall meet at the Children's House at a different time from the arrival of the referred minor and shall not have individual contact with the referred minor.

Meeting of the interdisciplinary team on the day of the investigative interview.

16. (1) The interdisciplinary team may consist of:

The interdisciplinary team.

(a) the Manager (Children's House) and the forensic interviewer appointed;

(b) the member of the judiciary presiding over the on-going case, if any, and his deputy registrar;

(c) a representative of the Executive Police;

(d) the Director or the key social worker from the Directorate of Child Protection:

Provided that the Director or the key social worker may be assisted by the legal consultant to the Directorate;

(e) the psychologist working at the Children's House who will assess the therapeutic needs of the minor and determine the support that the minor shall receive after the investigative interview;

(f) the children's advocate or the representative appointed in terms of article 21 of the Act;

(g) the advocate of the parent or parents or legal

guardian of the minor;

(h) the parent or parents or legal guardian of the minor unless their presence causes the minor debilitating fear or conditions the minor in such a way that his testimony is considered to be altered simply by their presence particularly when the parent or parents or legal guardian of the minor is considered as the alleged perpetrator of the significant harm on the minor which led to the investigative interview:

Provided that the parent or parents or legal guardian may enter the premises and be present in the professionals' room from a different entrance or after the minor is already in the interviewing room and needs to leave before the minor leaves the interviewing room. In such case, the parent or parents or legal guardian may not stay in the outside area and vicinity of the Children's House before or after the investigative interview:

Provided further that if the presence of the parent or parents or legal guardian causes debilitating fear in the minor or conditions the minor in such a way that the minor refuses to testify or his testimony is considered to be altered simply because of the alleged perpetrator's presence, the parent or parents or legal guardian may be ordered to leave the premises of the Children's House or not to attend at all on the day. This decision may be taken in the preliminary meeting and noted in the minutes or may be taken at any time on the day of the investigative interview:

Provided further that the minor shall have the right to know if the alleged perpetrator is in the premises and shall be told the truth at all times;

(i) any other person whose presence the Manager (Children's House) will deem necessary.

(2) The members of the interdisciplinary team may either be physically present on the day or may connect and follow the meeting or the investigative interview online through a secure connection. It shall be the responsibility of each member that connects online to ensure that the connection is secure and that the place from which he is connecting respects the formality of the situation and protects the confidentiality of all the parties involved. The Manager (Children's House) shall have the authority to stop any such connection should he become aware that such connection does not respect this provision:

Provided that any loss or interference of any such connection shall not interrupt or disturb the investigative interview in any way once this has started:

Provided further that recording of such connection by the professional connecting online shall at all times be prohibited. Should the Manager (Children's House) become aware of any professional recording with any medium the investigative interview or any part thereof, the Manager (Children's House) shall have the authority to stop any such connection immediately and to ask for such recording to be immediately deleted.

17. The referred minor shall arrive at the Children's House by the means of transportation agreed upon during the preliminary meeting which may be by the biological parents or the alternative carer driving the minor to the Children's House, or by having the minor picked up from school or from such premises where the minor would be on the day, without the need of the consent of the parent or parents or the legal guardian of such minor or by making any other arrangement according to the circumstances of the referred minor. The Manager (Children's House) may request the assistance of the Executive Police in accordance with the Police Act whenever he deems it required.

Transporting the minor to the Children's House.

Cap. 164.

18. Upon arrival, the referred minor shall be welcomed at the Children's House and given time to adjust, calm down and feel safe. The Manager (Children's House) shall explain to the minor what will happen on that day, may show the premises to the minor and if deemed adequate for the minor take the minor to see the professionals' room and meet the professionals. The Manager (Children's House) shall seek to answer any relevant questions of the minor:

Introduction to the minor upon arrival.

Provided that if other professionals such as an interpreter or a communication specialist shall be present during the investigative interview to cater for the needs of the referred minor, the Manager (Children's House) shall introduce such professional to the minor, unless this professional is already known to the minor, at the very start of the communications with the minor as stated above and all such communications will take place with the help of such professional.

19. When the minor seems comfortable and ready for the investigative interview, the forensic interviewer, the minor and any other professional assisting the minor shall proceed to the interview room. The forensic interviewer will conduct the interview as stated in sub-regulation (11) of regulation 2. At any point in time, the forensic interviewer may pause the interview either to give a break to the minor if this is deemed necessary or to consult with the interdisciplinary team in the professionals room on the disclosures of the interview and on clarifications needed by the forensic interviewer.

The forensic interview.

20. (1) If the interview is being conducted in the course of on-going court proceedings, the presiding member of the judiciary shall regulate the procedure of the interview, shall determine which questions are to be allowed to be made to the minor or not according to the Code of Organization and Civil Procedure and shall make any

Procedure of the interview.

Cap. 12.

relevant decisions needed during the course of the interview:

Provided that if the interview is being done in the course of investigations outside any court proceedings, the Manager (Children's House) will carry such responsibility stated above.

(2) At all times, notes of the proceedings shall be taken by the deputy registrar or by the administrative support worker which notes shall be filed in the acts of the proceedings and, or in the minor's file kept by the Children's House.

Absence of parent or advocate.

21. Without prejudice to regulation 13, the investigative interview shall not be postponed if the parent or parents or legal guardian or their advocate is not present on the date of the interview given that they would have been given sufficient notice in advance of such date of at least a week, and the minor is already at the Children's House or on his way there unless it is ascertained that no harm and, or confusion shall result to the minor taking into consideration the age and maturity of the referred minor.

Instances when there may be a subsequent interview.

22. Without prejudice to article 17 of the Act, the investigative interview shall be conducted and recorded, as much as possible, in one sitting with no time limit being set by the interdisciplinary team and with both examination-in-chief and cross-examination being done during the same interview if the interview being held is for the purposes of on-going court proceedings. Only in the following instances may there be subsequent interviews:

(a) when the minor is visibly tired or emotionally aroused as not to be able to continue giving evidence without prejudice to his credibility or wellbeing;

(b) when new evidence emerges at a later stage;

(c) when the minor himself expresses his wish to testify again;

(d) in other exceptional circumstances which are to be specifically noted in the acts of the proceedings or the notes taken.

Recording of the investigative interview.

23. No additional consent and, or authorisation is required for the recording of the investigative interview. Any investigative interview, even if interrupted, is to be recorded in terms of these regulations and the recording is to be stored securely according to these regulations.

Refusal of minor to participate.

24. At all times, the referred minor may refuse to participate in the investigative interview or to stop such interview and may ask for a change in the professional and such wishes shall be respected.

OF INTERPRETERS AND ASSISTING PROFESSIONALS

25. (1) The investigative interview is to be held in the Maltese or English language according to which language is the primary language of the referred minor.

Language to be used and interpreters.

(2) Without prejudice to the foregoing sub-regulation, when the primary language of the referred minor is neither Maltese nor English and the referred minor does not have sufficient knowledge of either language to express himself adequately, the investigative interview will need to be conducted with the help of an interpreter.

(3) Before the start of the investigative interview, the member of the judiciary or the legal procurator engaged by the Children's House shall administer the oath to the appointed interpreter to faithfully report the words of the referred minor.

(4) The interpreter mentioned in the foregoing sub-regulation shall be present in the interviewing room and shall be visible at all times in the recording.

(5) It shall be the responsibility of the forensic interviewer to explain to the interpreter that there shall be no communication between him and the referred minor without such communication being translated for the purpose of the recording. The forensic interviewer shall stop the interview should he become aware that there is communication between the interpreter and the referred minor which is not being translated for the purpose of the recording and can ask for a replacement of the same interpreter.

(6) The foregoing provisions shall apply *mutatis mutandis* to any other linguistic professional whose assistance shall be needed to meet the linguistic needs of the referred minor and to enable the same minor to express himself clearly.

OF THE STORING OF DATA

26. Once an investigative interview is conducted and recorded, the intellectual property of that recording belongs to the Foundation for Social Welfare Services but stored and managed by the Children's House.

Intellectual property of the interview.

27. (1) It shall be the responsibility of the Manager (Children's House) to secure the recording, to store it in a secure manner, to make copies of the recording and to hand a copy of the recording to the Police, to present a copy in the acts of the on-going proceedings and may provide a copy to the parent or parents or legal guardian of the minor if this is deemed as not being against the best interest of the minor:

Copies and access to the recording of the interview.

Provided that when filed in the acts of proceedings, the recording shall be kept sealed by the Court. Interested parties need to file an application to request access to Court to such recording.

(2) Professionals working with the child who believe that having access to the recording could benefit the child, shall send a written request to the Manager (Children's House) who shall subsequently provide access only to the recording if he deems the request justifiable.

(3) When the referred minor becomes of age, he may send a written request to the Manager (Children's House) for a copy of such a recording and shall be provided with a copy.

Copies of other documents.

28. The regulation on access and distribution of recordings shall apply *mutatis mutandis* to the distribution of copies of any other document and, or record kept in the minor's file at the Children's House including the report drawn up by the paediatric specialist.

Retention of records.

29. Records and documentation kept and stored at the Children's House shall be kept for thirty (30) years from when the minor becomes of age. Once this time period shall have elapsed, data shall be disposed of according to the Data Protection Act.

Cap. 586.

OF THE MEDICAL EXAMINATION

The medical examination of the minor.

30. When in the preliminary meeting held in terms of regulation 10, it is determined that a paediatric examination should take place, the paediatric specialist shall examine the referred minor at the premises of the Children's House and shall draw up a report which shall be kept in the minor's file at the Children's House:

Provided that during such paediatric examination, the Manager (Children's House) or the Director of Child Protection or the key social worker from the Directorate of Child Protection and, or a person indicated by the minor may be present in the same room instead of a parent or legal guardian when such parent or legal guardian is the alleged perpetrator of the maltreatment which led to the referral. Such individuals need to be of the same sex as the referred minor undergoing the examination.

Access to medical records.

31. The paediatric specialist may carry out those tests that he deems necessary owing to the circumstances of the case, may access records of the minor kept at public and, or private hospitals and may contact general practitioners to acquire medical information about the minor.

Follow-up appointments with the paediatric specialist.

32. The paediatric specialist may choose to schedule follow-up appointments with the referred minor and the parent or parents or legal guardian of the minor or the alternative carer shall be responsible to take the minor to such appointments.

Refusal of minor to medical examination.

33. At all times, the referred minor may refuse to being medically examined or to stop such examination and such wishes shall be respected.

OF THERAPEUTIC SUPPORT TO THE REFERRED MINOR

34. Without prejudice to regulation 19, once the investigative interview is completed, the Manager (Children's House) shall liaise with the psychologist working at the Children's House for such psychologist to conduct a psychological assessment, if necessary, and determine the minor's needs for therapeutic support.

Psychological assessment for therapy.

35. (1) When the alleged perpetrator of maltreatment is not one of the parents or legal guardians, parental consent for such therapy needs to be sought. When the alleged perpetrator of maltreatment is one of the parents or legal guardians, the Manager (Children's House) shall communicate the therapeutic needs of the child to the Director (Child Protection) who shall make a request for such therapy to be given to the minor without parental consent or authorisation to the competent court.

Consent or authorisation required for therapy.

(2) Once there is consent or the authorisation as specified hereabove, the psychologist shall hold therapeutic sessions with the referred minor to help the minor process the trauma which sessions need to be adapted to suit the minor's age and developmental needs:

Provided that if it is determined that other therapeutic services are needed to support the minor alone or within the family unit, the Manager (Children's House) shall make the necessary referrals to other services.

36. At all times, the referred minor may refuse therapy or may ask for a change in the professional and such wishes shall be respected.

Refusal of minor to therapy.

37. When the psychologist deems that the referred minor has received sufficient therapy to process the trauma, the psychologist shall hold a closure session with the minor alone or with the minor and other family members or with the minor and the alternative carers as the psychologist deems the most appropriate in the circumstances and shall inform the Manager (Children's House). Should the minor benefit from other therapeutic services, a referral shall be made to other services. A report shall also be drawn up by the psychologist which report shall be kept in the minor's file at the Children's House. A copy of such report can be communicated to interested persons in terms of these regulations.

Closure session and referral.

38. When new evidence emerges during the course of the therapeutic interventions, the psychologist shall help the minor recall such memories but shall stop the therapeutic intervention and shall proceed with filing a report with the Director (Child Protection) in terms of the Act:

New evidence during therapy.

Provided that the psychologist may resume with the therapeutic sessions only once directed to do so by the Director (Child Protection) or once another investigative interview has been held in

terms of these regulations.

OF OFFENCES

Influencing the minor's testimony.

39. Any person who in any way hinders or tries to influence or manipulate the referred minor to alter their responses in the investigative interview or to refuse to answer to the questions, shall be guilty of an offence and shall on conviction be liable to imprisonment for a term of not less than six (6) months and not exceeding one (1) year or to a fine (*multa*) of not less than one thousand and five hundred euro (€1,500) but not more than two thousand and five hundred euro (€2,500), or to both such fine and imprisonment.

Tampering with the recording of the interview.

40. Any person who in any way, maliciously, tampers, removes, distorts, edits or destroys, a recording of the investigative interview or part thereof, shall be guilty of an offence and on conviction be liable to imprisonment for a term of not less than six(6) months and not exceeding one (1) year or to a fine (*multa*) of not less than one thousand and five hundred euro (€1,500) but not more than two thousand and five hundred euro (€2,500), or to both such fine and imprisonment.

Sharing of recording.

41. Any person who distributes, disseminates, supplies, transmits, makes available, publishes or posts online the recording, or part thereof, of the investigative interview shall be guilty of an offence and on conviction be liable to imprisonment for a term of not less than twelve (12) months and not exceeding four (4) years or to a fine (*multa*) of not less than one thousand and five hundred euro (€1,500) but not more than five thousand euro (€2,500), or to both such fine and imprisonment.

Lingering in the vicinity of the Children's House.

42. Should the alleged perpetrator, any person sent in his name or any other unauthorised person lingers in the vicinity of the Children's House at the time before the scheduled investigative interview or after this has been completed with the aim of stalking the referred minor in terms of article 251AA(3) of the Criminal Code or in any way communicate with the minor in relation to the investigative interview shall be guilty of an offence and on conviction be liable to imprisonment for a term of not less than six (6) months and not exceeding one (1) year or to a fine (*multa*) of not less than one thousand and five hundred euro (€1,500) but not more than two thousand and five hundred euro (€2,500), or to both such fine and imprisonment.

Cap. 9.

MISCELLANEOUS

Conflict between texts.

43. In these regulations, if there is any conflict between the English and Maltese texts, the English text shall prevail.

Gender references.

44. All the references in the masculine shall apply equally to the feminine sex without any distinction or preference.