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Avoiding drift in allegations practice advice

March 2021

This guidance has been developed by the Nationwide Association of Fostering Providers (NAFP) in consultation with members and invited comments from local authorities. The document takes into account legislation, regulations, standards and statutory guidance that govern fostering in England. However, this guidance is relevant to those operating in Scotland and Wales and recommends good practice guidelines to be followed during and following an investigation of an independent fostering agency carer.

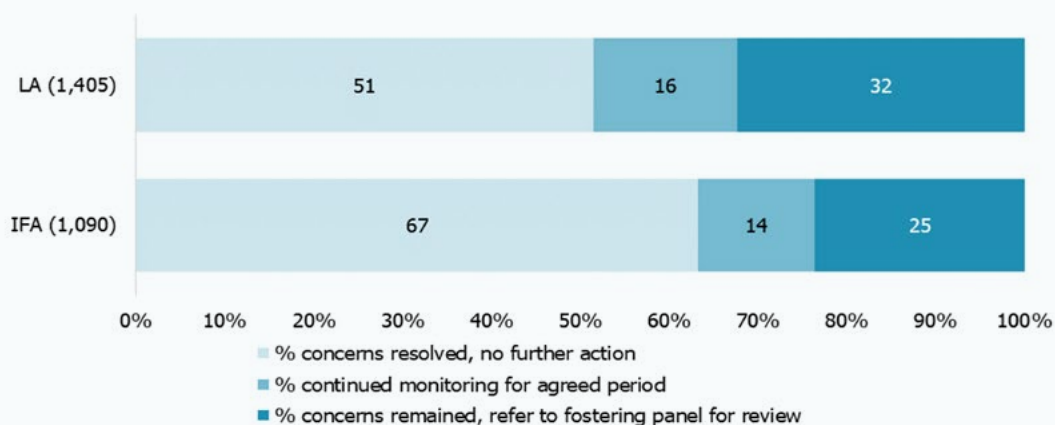
During 2019 to 2020, there were 2,495 allegations of abuse made against foster carers within local authorities and the independent fostering sector in England. Just under two thirds of allegations of abuse in 2019 to 2020 (1,580 or 63%) were made by fostered children against their foster carers, which is a similar proportion as 2018 to 2019 (65%). The other third came from other sources. In the same way as previous years, more allegations (56%) were made in the local authority sector, which is to be expected because more children are placed with local authorities (64% of filled places).

Physical abuse has continued to account for the largest number of allegations. In 2019 to 2020, 56% of all allegations were related to physical abuse, this percentage has remained very similar since 2014 to 2015. Allegations of sexual abuse continue to be the least common, accounting for 8%. This is a slight increase from 2018 to 2019 (6%) but returns to the level seen in years before this.

Restraints - during 2019 to 2020, there were 990 reported incidents of physical restraint reported by local authorities and the independent fostering sector. As with previous years, the IFA sector reported most incidents of physical restraint (79% of all instances). Some of the differences between sectors may be affected by variations in reporting processes between IFAs and local authorities. For more information in relation to restraints, see the [NAFP/CoramBAAF practice guidance](#).

Over half (58%) of all allegations resulted in an outcome of no further action, in line with the previous year. This outcome was more common for IFAs (67%) than for local authorities (51%). A slightly lower proportion of allegations were subject to continued monitoring of foster carers (13%) than in previous years (17% in 2018 to 2019). A slightly higher proportion (28%) were referred on to the fostering panel for review compared with previous years (26% in 2018 to 2019). This outcome was more common for local authorities (32%) than for IFAs (25%).

Figure 24: Outcomes of investigations into allegations of abuse in 2019 to 2020
(<https://www.gov.uk/government/statistics/fostering-in-england-1-april-2019-to-31-march-2020/fostering-in-england-2019-to-2020-main-findings>)



Half of all investigations into allegations were resolved in less than 21 days. A quarter of allegations took more than 50 working days to conclude. On average, allegations were concluded more quickly in IFAs than in local authorities. Of all allegations in IFAs, 59% were resolved in less than 21 days, compared with 46% in local authorities. www.gov.uk - national statistics - Fostering in England 2019 to 2020.

The conclusion (timeframe) of allegations does not appear to be captured in the England statistics relating to 2019 to 2020, however this was captured in 2018 to 2019.

On average, allegations were concluded more quickly in IFAs than in local authorities. Of all allegations in IFAs, 55% were resolved in less than 21 days, compared with 48% in local authorities.

www.gov.uk - national statistics - Fostering in England 2018 to 2019.

This means that 45% of investigations within the independent sector are not resolved within 21 days.

At times, delay in progressing an investigation following an allegation may be due to obtaining necessary evidence or closure from either the police or the safeguarding team within local authorities. A process must be followed, which is clear and must not be compromised. This guidance should be used alongside the necessary work to protect children and must be secondary to it.

The content within this document should only be considered when there is evidence of “unnecessary drift”.

Meaning of drift - “to move slowly, especially as a result of outside forces, with no control over direction” (Cambridge English Dictionary)

Unnecessary - “not necessary or essential; needless; unessential. More than is needed or wanted” (Cambridge English Dictionary)

1. Principles

1.1

This advisory document recognises the authority of child care legislation and seeks to ensure that safeguarding the welfare of children is at the core of fostering policy and practice. It recognises that the welfare of any child placed with adults who are trusted to care for children in their home is paramount.

1.2

Consideration will be given to the views of the child, the foster carers and where applicable the views of parent(s), and other relevant parties/professionals who know the child.

1.3

Where there are significant concerns in relation to a child's safety and or wellbeing the independent fostering agency will support the local authority in moving a child to a suitable alternative care giver in either the short, or long term. Both parties will work together to ensure that the child is fully informed of the decision and reasons.

1.4

It must be ensured that children in foster care have well informed care plans, in line with their best interests and those planning for and supporting children should avoid unplanned moves where possible.

1.5

The independent fostering agency will provide the foster carer with as much information as possible to ensure they understand the reasons for the removal of a child, or the investigation. However, the agency will not jeopardise the enquiry in doing this.

1.6

The agency has an ongoing duty of care to the foster carers who are in an investigation and will ensure independent support is offered to understand and be supported throughout the process (each agency will refer to their own policy around this).

2. Aims of the good practice guidance

2.1

To promote an effective working partnership within and between the independent fostering agency and the placing local authority to manage concerns and allegations *fairly, quickly and consistently in a way that provides effective protection for the child, and at the same time supports the person who is the subject of the allegation. (standard 22.9 National Minimum Standards 2011)*

2.2

To ensure continuity of care for children placed with foster carers, where safe to do so.

2.3

To minimise the length of time taken in the closure of allegations made against foster carers, where there is unacceptable drift.

2.4

To provide a clear process, only where drift is evident, for the independent fostering agency to work towards with the support of the placing local authority, where possible.

2.5

To minimise the emotional harm to foster carers who are awaiting an outcome of any investigation.

2.6

To promote a safe and sensible action plan for all parties involved, to either support foster carers to continue their role caring for children, or recommend termination of their role as foster carers. In a timely manner, with damage limitation.

2.7

To provide an opportunity for the independent fostering agency, the foster carers and the placing local authority to learn and develop and promote effective ongoing partnership working.

2.8

The impact of drift in closure to allegations is likely to impact on the resilience and sufficiency of carers. Good, robust and fair arrangements for avoiding drift are likely to contribute towards aiding carer recruitment retention and therefore sufficiency.

3. Delay in investigations and the impact

3.1

Between June and September 2020 NAFP offered the opportunity for fostering agencies and local authorities to consider whether there was any delay in closure to investigations, and whether the delay was due to either the volume of work an organisation was dealing with that led to not prioritising the allegation (especially where children were no longer in placement), or waiting for information from other services, such as the police who may be considering if a criminal offence had taken place. There may be a delay in closure from the police and it is essential that this continues to be challenged by the local authority, where there appears no reason for this. However, once this decision has been made, there should be no delay in proceeding with the local authority and fostering agency investigation.

3.2

Although it is appreciated that those who are appointed to deal with complaints and allegations are usually juggling many other things, and it is often not as easy as it seems to “drop everything” to conduct an investigation, a delay in starting the investigation could be argued that this prejudices a carers ability to defend the allegations.

3.3

Generally speaking, justifying any delay in an investigation will likely involve providing a reasonable explanation for the reason why the organisation and/or investigator were not moving more quickly. Investigations should always be done in a timely way, recognising the negative impact of delay and continual steps taken to move the process forward, where possible.

3.4

This guidance is only to be referred to where it can be evidenced that delay is unnecessary and demonstrating this seriousness means giving immediate attention to the matter.

3.5

Fostering agencies have a duty of care to foster carers and the sooner there is closure to the situation, whatever the outcome, the better. Where there is no risk to children, and, where the agency is waiting to carry out its own internal review process to re-assess a carer’s suitability, the local authority should support the agency to move forward, this will either support sufficiency and enable foster carers to continue to provide a home to children, or ensure the carers are no longer fostering where deemed the necessary outcome.

3.6

Agencies will proceed with their own policy and process in a timely manner and ensure the carers have an opportunity to view any reports and submit their response through the panel process.

3.7

Carers can be left unnecessarily with the anxiety and emotional stress that being investigated can cause, this is heightened when communication is not effective and carers are left not knowing of progress within the investigation.

3.8

Children may also be left considering their carers have “abandoned” them and can cause additional harm to their experience of caregivers. Feeling they are to blame or it is “all their fault” “they are unloveable”

3.9

There is unquestionably a lack of foster carers across the country to care for children who are in need of fostering families, it is essential that investigations are concluded to support carer sufficiency, obviously when assessed as safe to do so.

3.10

A reminder that this advice does not recommend working against safeguarding / investigation measures set in place, and only to be used when there is evidence that delay is unnecessary, there is no risk to children, and, the agency is waiting to carry out its own internal review process to re-assess a carers suitability. Fostering services have a duty of care to Foster Carers and the sooner there is closure to the situation, whatever the outcome, the better, for all the reasons stated above.

3.11

Where possible a supportive action plan should be in place to help carers learn and develop, this may include additional support and training to understand their role and the children they are caring for.

4.

Relevant legislation and guidance

STANDARD 22 - Handling allegations and suspicions of harm

Outcome: *Allegations and suspicions of harm are handled in a way that provides effective protection and support for children and the person making the allegation, and at the same time supports the person who is the subject of the allegation.*

Underpinning legislation:

- Regulation 11 – Independent fostering agencies – duty to secure welfare
- Regulation 12 – Arrangements for the protection of children
- Regulation 17 – Support, training and information for foster parents
- Regulation 30 – Case records relating to foster carers and others
- Regulation 36 – Notifiable events Children Act 1989: Section 22 – General duties of local authority in relation to children looked after by them
- Sections 61 and 62 – duties of voluntary organisations and local authorities in relation to children accommodated by or on behalf of the voluntary organisation
- Working Together to Safeguard Children (2018)

5. The investigation

5.1

Individual placing local authorities will apply their safeguarding children procedures where the concerns could have a direct or indirect impact on children in foster care. The agency will ensure that foster carers have a copy of the placing local authority's safeguarding policy and their process in how they will manage any allegations or concerns made against a foster carer.

5.2

The investigation will be carried out by a designated lead officer for the local authority (LADO), refer to your own policy in relation to reporting concerns, however 7.1 of *Working Together to Safeguard Children* states *"within one working day of a referral being received, a local authority should acknowledge receipt to the referrer and make a decision about next steps and the type of response required"*

5.3

*"The maximum timeframe for the assessment to conclude should be **no longer than 45 working days from the point of referral**" - (*Working Together to Safeguard Children 2015*) - see guidance in relation to the strategy discussions and work of all parties involved (this guidance is recommending 21 days for the investigation to conclude by the the LA and a further 24 days to review the foster carer to take place by the IFA, with recommendations)*

5.4

Foster carers should be kept informed by their independent fostering agency and know as soon as possible that an allegation has been made against them (not the exact nature, unless directed by the LADO); how the enquiries will be conducted and their cooperation sought.

5.5

Foster carers who are subject to an allegation should always be:

- Treated fairly and honestly;
- Provided with ongoing support by their supervising social worker;
- Given information about sources of independent advice and support;
- Informed about all decisions as soon as possible, which should be confirmed in writing.

5.6

Frequent reviews should be undertaken by the independent fostering agency alongside the local authority throughout the enquiry to avoid unnecessary drift and delay. This guidance would encourage the local authority and the fostering agency to schedule **ongoing communication opportunities/meetings ideally each week, until closure of the investigation.**

The above refers to the placing local authority and provider having regular communication to ascertain the status of the investigation.

Good practice would also include foster carers being offered the opportunity to have an update weekly, or more or less frequently as agreed by the local authority and fostering agency, however, as a duty of care it is essential that the carer receives regular updates at a reasonable frequency.

5.7

The investigation of the allegation will lead to one of four findings:

- Allegation *unsubstantiated* - allegations are determined as unsubstantiated when there is insufficient evidence to support the allegations made
- Allegation *substantiated* - allegations are determined as substantiated when there is evidence to corroborate the allegation made
- Allegation *unfounded* - allegations are determined as unfounded when the information suggest that the allegation made is baseless
- Allegation *malicious* - allegations are determined as malicious when the allegation is demonstrably false and has been made with the intent to cause harm to another.

6.

Closure to investigations

6.1

A clear and comprehensive summary including details of how the allegation was followed up and resolved, including action taken and decisions reached should be shared between the investigating authority, the fostering agency and the foster carer as well as the person making the allegation.

6.2

The fostering agency will follow their own policy in managing significant concerns/allegations against foster carers which will run concurrently and/or once there is closure to the local authority investigation. This policy should be made available to all parties.

6.3

On conclusion of the investigation the fostering agency will conduct a review of the foster carers' status and approval. There should be a clear recommendation from the worker and their manager, demonstrating good management oversight. If the recommendation is to terminate the approval of a carer, there must be clear reasons of how they have breached the:

- Fostering Regulations 2011
- Fostering Minimum Standards 2011
- Foster Carers Agreement Sch 5 (27)

6.4

All relevant information should be considered by the IFA fostering panel to enable them to make a recommendation, with reasons, prior to the Agency Decision Maker making their decision.

7. Process for the fostering agency

7.1

Follow safeguarding procedures set out in the agency and local authorities policy, in line with the regulations guidance and requirements.

7.2

Ensure foster carers are informed of any concern as soon as possible and have been given access to the policies and processes in relation to safeguarding children and managing allegations. There should also be clear guidance in relation to support they can expect to receive.

7.3

Adhere to the IFA's own and the local authority investigation protocol.

7.4

Do not delay the investigation process, seek closure, where possible, **within 21 days** (55% of investigations are concluded within 21 working days, government statistics) .

7.5

Agree with all parties a timeframe for closure to the investigation, where possible.

7.6

Arrange regular reviews, ideally weekly to ensure everyone is kept informed of progress or potential delay, communication is key!

7.7

Document the findings in a **shared action plan**, this will provide a chronological plan that will show who has been involved to resolve this investigation, their role and closure to their part of the investigation to enable the process to flow.

7.8

If there is no clear closure to the investigation (and no reasonable explanation for the delay) and there is no ongoing concern or risk, then **the agency will progress to their own internal review process.**

7.9

Any investigation should be concluded and recommendations made **within 45 days** (*21 days for the investigation to be concluded by the local authority, with a 24 day review period by the fostering agency*). This guidance gives additional time / opportunity to contribute to the review process, and add any findings, encouraging a maximum 45 days to complete closure.

7.10

The local authority will be invited to contribute to the foster carer review, highlighting any ongoing concerns they may have, or contribute to making any recommendations to enable decision making.

7.11

The review process will not exceed 45 days and be presented at the next available fostering panel meeting (unless there is clear evidence of why this should not progress from the local authority).

7.12

Each agency should consider the relevance of any historic concerns, allegations and standards of care in line with their own policy.

7.13

Where there is evidence of significant concerns, historic concerns, patterns or themes that have resulted in a termination of approval of foster carers, the fostering agency and local authority will inform the national care inspectorate, Disclosure and Barring Service (DBS), relevant local authorities to inform of the deregistration of the foster carer (including the local authority of where the carer resides) and where this has met the threshold (refer to the local authorities and agency safeguarding policies). All decision making and management oversight should be evidenced in writing.

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