

Practice Guidance for Criminal Convictions and Cautions

This practice guide provides clarity around the expectations for assessing social workers undertaking kinship or mainstream fostering assessments where DBS checks have revealed applicants' convictions and cautions.

Legislation, Regulatory Framework and Statutory Guidance:

Fostering Services Regulations 2011

Assessment and Approval of Foster Carers: Amendments to the Children Act 1989 Guidance and Regulations (July 2013)

National Minimum Standards 2011

Rehabilitation of Offenders Act 1974

Guidance Purpose:

When considering the suitability of a prospective kinship or mainstream foster carers, the assessing social worker should give regard to criminal convictions and cautions. These may be revealed by the applicant during the enquiry/assessment period or disclosed within the enhanced DBS.

Prospective carers should be asked during the initial enquiry/assessment stages as to whether they have ever been cautioned or convicted of any offences (including spent convictions) or whether they are currently under investigation, on police bail or have any prosecutions pending.

Any non-disclosure should raise concerns regarding the honesty and integrity of the applicant(s) and consideration should be given to preclusion from the assessment process.

An enhanced DBS must be requested for all applicants and adult household members.

Foster for Bradford will not continue with an assessment whereby any applicant or member of the household has a conviction included in Schedule 4 of the Fostering Services Regulations 2011.

Applicants convicted of other offences should not be considered by Foster for Bradford until a risk assessment has been completed by the assessing social worker and considered by both the Team Manager and Service Manager.

The risk assessment and outcome of the discussion between the assessing social worker and Team Manager should be recorded in the Risk Assessment Criminal Convictions Form. Once complete, this risk assessment should be sent to the Service Manager for consideration and final decision.

Household Members:

Household members 18 years or over should have an enhanced DBS check undertaken. Where household members (not the approved foster carers) have been convicted of an offence a risk assessment must be carried out by the assessing social worker in discussion with the Team Manager.

Decision Making:

Following the receipt of the Risk Assessment Criminal Convictions Form, the Service Manager will make the final decision on the suitability of an applicant to continue with the assessment.

Excluded Offences:

Fostering Services Regulations 2011 Schedule 4

Offences specified for the purposes of regulation 26

Offences in England and Wales

1. Any of the following offences against an adult —
 - (a) an offence of rape under section 1 of the Sexual Offences Act 2003,
 - (b) an offence of assault by penetration under section 2 of that Act,
 - (c) an offence of causing a person to engage in sexual activity without consent under section 4 of that Act, if the activity fell within subsection (4) of that section,
 - (d) an offence of sexual activity with a person with a mental disorder impeding choice under section 30 of that Act, if the touching fell within subsection (3) of that section,
 - (e) an offence of causing or inciting a person with mental disorder impeding choice to engage in sexual activity under section 31 of that Act, if the activity caused or incited fell within subsection (3) of that section,
 - (f) an offence of inducement, threat or deception to procure sexual activity with a person with a mental disorder under section 34 of that Act, if the touching involved fell within subsection (2) of that section, and
 - (g) an offence of causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception under section 35 of that Act, if the activity fell within subsection (2) of that section.

Approved Foster Carers & Household Members:

Foster carers have a duty to inform the agency of any criminal convictions or cautions incurred during their fostering career. This expectation is inclusive of any household member. The information should be shared within 24 hours to either their supervising social worker, duty social worker or out of hours officer.

The procedure for Allegations, and Significant Causes of Concern should then be implemented by the supervising social worker and fostering service. An early annual review may be deemed necessary.

Purpose and Content of the Risk Assessment

This is an assessment of risk based on the nature and pattern of offending, the honesty and integrity of the individual and evidence of acceptable behaviour/learning since offending. If, on conclusion of the risk assessment process, using the parameters given, significant doubt exists that the individual's history poses a risk to the welfare or safety of children/young people then an application to foster must be declined.

The risk assessment must reflect individual circumstances relevant to the role i.e. prospective/current foster carer/job or member of the fostering household.

Each risk assessment must involve face to face discussion between assessing social worker and applicant. Each conviction, caution and any relevant incident-related information must be addressed with the individual and recorded in the risk assessment.

All completed risk assessments must be read and determined by the relevant Team Manager, who must briefly summarise the reasons for their decision prior to being considered by the Service Manager.

Where available, opportunities to validate applicant's accounts should be utilised e.g. third party information.

Assessment of the individual's integrity is central to the process – if there is any discrepancy between his/her account and the disclosure information received this must be explored thoroughly with the individual and considered in the decision-making process. Where information is considered to have been withheld deliberately by an individual then consideration should be given as to termination of their assessment.

In respect of current foster carers, where they have not disclosed post-approval offending which has come to light this may initiate an early Foster Carer Review as it is a breach of the Foster Care Agreement and is to be treated as a 'serious concern'.

Outcomes of risk assessments will be shared verbally with the relevant individuals.

The risk assessment must be recorded and placed on the relevant applicant/carer file. It may not be shared with an external person/body without explicit written consent of the applicant/carer, unless, exceptionally, upon the authority of the relevant Service Manager in

response to a request or direction from a court, the statutory regulator, or a reasonable request from a local authority conducting a related safeguarding investigation.

Assessment Tool and Guidance

Disclosure information received must be risk assessed against:

- Nature, pattern, and seriousness of offences
- Court disposal e.g. Crown or Magistrates
- Relevance to the role i.e. carer or household member, job holder
 - Length of time since offence(s)
- Single offence/history of offending
- Age(s) at time of offence(s)
- Full disclosure of offence(s) or not by applicant/job holder, or, if post approval/appointment, at the time of the offence
- Potential impact of offence(s) on the fostering role/childcare post
- Mitigating representations offered by the individual

It is recommended that each offence is considered utilising the following acronym:

S – Settings i.e. context

T – Triggers i.e. antecedents

A – Action – what the behaviour/offence actually involved

R – Response i.e. behaviour/conduct since offence(s); perpetrators view of offence

The following assessment tool may also be used:

Mitigating	Continuum	Aggravating
Minor or no injury ←	Injury	→ Incapacity or Disability
Spontaneous ←	Planning	→ Premeditated
No weapon/slap ←	Weapon	→ Knife/Firearm
Single blow ←	Duration of Attack	→ Sustained
Similar age/size/gender ←	Vulnerability of Victim	→ Younger/Smaller victim/ Disadvantaged
Severe provocation/Threat to self ←	Provocation	→ No provocation

Appendix 1:

Risk Assessment – Criminal Convictions and Cautions

Name of Applicant	
Date of Birth	
Address	
DBS Certificate Number	
Date of Assessment	

<p>1. List the Offences, Convictions and/or Cautions being assessed (include dates of each offence and a summary of the details)</p>
<p>2. Has the information (convictions/cautions/other offending history) been openly disclosed by the individual (briefly describe how the information was received and indicate any discrepancies and reasons/explanations given and/or sensitivity)</p>
<p>YES / NO</p>
<p>3. Provide the explanation given by the individual (refer to the S.T.A.R. matrix for offences of violence; and if either violence or custodial sentence(s))</p>
<p>4. Has it been possible to independently validate the applicant's disclosure/conviction/caution in anyway (e.g. DBS, third-party reference).</p>
<p>YES / NO</p>
<p>5. Evidence of any relevant subsequent change of applicant behaviour/attitude (e.g. length of time since last offence, employment history, level of remorse shown, current attitude etc).</p>

6. Will the individual's role involve likely unsupervised contact with children?
YES / NO
7. What is your assessment and recommendation regarding approval/continued suitability in post, or continuation of the assessment to become a foster carer.

Assessment by Team Manager:	
Continue with Assessment/Re-approval – YES/NO	
Any conditions/recommendations:	
Signed:	
Name & Designation:	
Date:	

Comments and Decision by Service Manager:
Continue with Assessment/Re-approval – YES/NO
Any conditions/recommendations:
Date for the Applicant to be Informed of the Decision:



Signed:	
Name & Designation:	
Date:	