

## Allegations and Standards of Care

### Guidance for foster carers

#### 1. Introduction

Foster carers provide these vulnerable children with emotional and physical warmth in the privacy of their own homes. Whilst this is an essential part of this unique and invaluable role, it does leave foster carers particularly vulnerable to allegations. Indeed, foster carers are unlikely to have a fostering career without facing the challenge of an allegation or standard of care concern at some point in time. The welfare of the child should always be the paramount concern, and it is vital that children are kept at the centre throughout. There are children who are more vulnerable such as children with disabilities or children with communication needs and this should be taken into consideration.

Anyone working with children is vulnerable to having allegations made against them. Many children who come into care have been abused or neglected prior to entering care which may increase the risk of them making allegations. Their behaviours may also make them more vulnerable to abuse.

It must also be acknowledged that children in care have been abused by people in positions of trust, such as their caregivers and this includes their foster carers. Allegations may also be made against other members of the fostering household/family; in these cases, the foster carer(s) may still be subject to investigation. When an allegation is made against a person in a position of trust, the local authority has a legal duty to investigate and to ensure that children are safe. Although this is a necessary process, we fully understand that it puts the foster carer and their family under emotional strain.

We understand that the impact for foster carers, even when an allegation is 'unfounded' can be profound. It is recognised that a perceived lack of information about the allegation itself, the investigation process and the support which carers are entitled to, can lead to frustration and distress for foster carers.

**This guidance aims to provide the information West Sussex foster carers need to understand the process and know what support is available to minimise the impact when an allegation or 'standard of care concern' is made.**

## Jargon explained

<b>LADO</b>	<p><b>Local Authority Designated Officer (LADO)</b></p> <p>This is a safeguarding officer who is responsible for managing all allegations against people working with children in trusted positions; e.g., teachers, nursery workers, social workers, foster carers etc. The LADO will oversee all allegations against foster carers.</p>
<b>Section 47</b>	<p>Child Protection Enquiry carried out under Section 47 Children Act 1989</p> <p><a href="https://www.proceduresonline.com/westsussex/cs/p_sec_47_enq.html?zoom_highlight=section+47">https://www.proceduresonline.com/westsussex/cs/p_sec_47_enq.html?zoom_highlight=section+47</a></p>
<b>Strategy Discussion</b>	<p>A strategy discussion is a decision-making process to establish if an allegation needs to be referred for a S.47 Enquiry. It will usually involve the police, the local authority, and the fostering service. It is standard procedure not to invite a foster carer if an allegation is about them, but they will be informed about the outcome.</p>
<b>LADO discussion/meeting</b>	<p>This is a multi-agency meeting to share information and make recommendations following an allegation being made against a person in a position of trust.</p>
<b>ADM</b>	<p><b>Agency Decision Maker (ADM).</b> The ADM is the person in the Local Authority who is responsible for making decisions about the registration of foster carers. All decisions about registration must be 'ratified' by the ADM.</p>
<b>IRM</b>	<p><b>Independent Review Mechanism (IRM).</b></p> <p>A service that considers appeals about registrations if foster carers disagree with the ADM decision.</p>
<b>NMS</b>	<p>National Minimum Standards e.g. for Fostering, created by the Department for Education</p> <p><a href="https://www.gov.uk/government/publications/fostering-services-national-minimum-standards">https://www.gov.uk/government/publications/fostering-services-national-minimum-standards</a></p>
<b>Regs</b>	<p>Fostering Regulations</p> <p><a href="https://www.legislation.gov.uk/ukxi/2011/581/made">https://www.legislation.gov.uk/ukxi/2011/581/made</a></p>

### What is an Allegation & what is a 'Standard of Care concern'?

The threshold for an allegation that is considered by the LADO is wider than those in which there is reasonable cause to suspect a child is suffering, or likely to suffer, harm. The LADO threshold is, in respect of all people working or volunteering with children in a position of trust, is where they have:

- Behaved in a way that has harmed a child or may have harmed a child;
- Possibly committed a criminal offence against, or related to, a child; or
- Behaved towards a child or children in a way that indicates they may pose a risk of harm to children.

Whilst some behaviours may not constitute a criminal offence, and some may not reach the threshold of 'harm', consideration will need to be given as to whether they may indicate unsuitability to work with children.

Concerns may arise due to the person's behaviour as a carer or outside of this role.

If concerns arise about the behaviour of a carer, in relation to their own children, the police and/or Children and Young People's Services will need to consider if there is any further action required. This will include what implications there may be, if any, for fostered children in the household. Anyone in a foster family or their extended network may be accused of harming a child, including the foster carer's own children.

A LADO strategy meeting may be held where this is the best vehicle for sharing information and making recommendations. Typically, those invited to this meeting would be police, the Fostering Supervising Social Worker and the Child's Social worker, though others relevant may also be invited. There will always be a representative from the fostering service present.

A 'Standard of Care concern' is an accusation, not of a child protection nature, that the care provided to a child does not meet the standards expected of a registered foster carer ([National Minimum Fostering Standards 2011, Standard 22](#))

An Allegation or Standard of Care concern may be made by the child, or by someone acting on their behalf, such as a birth parent, teacher, or social worker.

Every local authority has a duty to investigate 'allegations of harm' as well as a duty to investigate any alleged 'Standards of Care concerns'. Allegations are managed through our safeguarding procedures and are overseen by West Sussex's Local Authority Designated Officer (LADO). Standards of Care Investigations are overseen by a senior fostering manager.

An allegation may be investigated jointly with fostering and children's social workers. If, however, a potential crime has been committed, the police may lead the investigation.

A 'Standard of Care' concern will usually be investigated by West Sussex's Fostering Service as an internal fact-finding investigation.

### **Why are allegations made?**

Allegations can be made when:

- a child has been abused or harmed by their foster carer or by a member of the household
- there has been conflict or a confrontation between carer and child including where it has been instigated by the child.
- a child makes links between abuse that has taken place in the past and their current care giver.
- a child may wish to gain control or initiate a move in placement or a return home.
- the child's birth family may wish to gain control or disrupt the placement.
- a child misinterprets actions of the foster carer, such as a comforting arm around their shoulder.

### **Why are 'Standard of Care concerns' made?**

Concerns may be raised:

- when a foster carer has not provided a child with the standard of care expected of a registered foster carer under fostering regulations and West Sussex's guidance.
- when there are different standards and expectations of care between fostering households.
- when others in the child's network; e.g. birth family, social workers, child's school do not agree with aspects of the parenting provided by the foster carer.

- when a child does not agree with aspects of parenting provided by the foster carer
- when a foster carer behaves in a way that contravenes what is expected of a registered foster carer, as set out in the Foster Carer Agreement

**Sometimes concerns fall very clearly in to one of the above categories. At other times, especially if the issue(s) is complex, it is not immediately clear whether the matter falls under Allegations or 'Standards of Care' concerns.**

The person who decides whether or not a concern is an 'Allegation' is the **Local Authority Designated Officer (LADO)**. **The LADO will make this decision** in consultation with managers from the children's social work team and the Fostering Service.

**Complaints:** A third, lower level type of concern is a 'Complaint' defined as 'an expression of dissatisfaction or disquiet in relation to an individual child or young person, which requires a response.' Complaints could be made about foster carers' behaviour, actions or inactions in relation to a child.

#### **What is the process when concerns are raised, or an allegation is made?**

The investigation process from referral and discussions, through LADO process to a conclusion and what happens next, is described in the flowcharts '*Process for managing allegations or standards of care concerns*' and '*Detailed Standards of Care*'.

The Complaints policy, can be found [here](#).

The process for Standards of Care Investigations is shown in detail in Appendix 1.

#### **Police involvement**

The fundamental objective of safeguarding procedures is to ensure the welfare of the child is protected. The initial strategy meeting/discussion is convened by the children's social work team with the police to decide whether the police will undertake a criminal investigation. Generally, the police will only investigate if there is potential that a criminal offence has or is likely to have been committed.

Some allegations do result in a police investigation, but those that do may not automatically progress beyond an initial interview.

#### **Who will be interviewed as part of the investigation?**

Whether it is an Allegations or a Standards of Care Investigation it is good practice for the child who raised the concern, or who the concern is about, to be interviewed as soon as possible. This would usually be arranged via the child's social work team. **It is also good practice for the person(s) to whom the allegation or concerns relate to also be interviewed, whether they are foster carers, or members of the foster carers' family.** This gives everyone chance to give their account and the investigating worker an opportunity to gain a full picture of what has occurred. This will be discussed at the start of the investigation. If the foster carers have an advocate (see Advice and Support for West Sussex Foster carers during allegations), they may choose to have their advocate present for interviews.

## Diversity

It may be that the child, or the person whom the allegation/concerns have been made against, has disabilities or communication issues. There may also be relevant factors relating to ethnicity, culture, religion or sexuality that need to be taken into consideration. This should also be discussed at the start of the investigation.

## How long does it take to resolve an allegation made or 'Standard of Care concern'?

It is difficult to specify timescales as much will depend on whether the police are involved in the investigation. Some allegations are resolved within days, some take several weeks, and unfortunately some can take many months to reach a conclusion; for example, where a complex police investigation is involved.

West Sussex's LADOs and the Fostering service strive to resolve the issue as soon as possible and will advocate on your behalf to encourage other agencies to manage the matter in a timely way. The LADO can also formally escalate concerns regarding delays. Wherever possible you will be advised of the approximate or likely timeframe for resolution.

## LADO outcome

West Sussex will ensure that you receive a written record of the outcome of any Allegation or Standard of Care concern investigation, together with any recommendations made. When the matter has concluded foster carers will receive a letter from the Head of Service/Agency Decision Maker (ADM) clearly detailing the outcome of the LADO matter. (**Note:** If the matter is presented to the fostering panel the letter from the head of service will follow this). The LADO provides a 'summary conclusion document' that is completed by the Supervising Social Worker and can be shared with Fostering Panel and so accessed by you also.

There are 5 possible outcomes (as described in government guidance)\*:

- **Substantiated** – where there is enough identifiable evidence to prove the allegation.
- **Unsubstantiated** – where there is insufficient evidence to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.
- **Unfounded** – where there is no evidence or proper basis which supports the allegation being made. It might also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively, they may not have been aware of all the circumstances.
- **Malicious** – where there is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false.
- **False** – there is enough evidence to disprove the allegation.

*\*(Handling Allegations of Abuse against Adults who work with Children and Young People – Practice Guidance 2009, adapted in Keeping Children Safe in Education, 2020)*

## Disclosure and Barring Service (DBS)

If, following a 'substantiated' allegation or concern, the fostering panel recommend deregistration, and this is agreed by the Agency Decision Maker, the fostering service will make a referral to the DBS. This would mean that the DBS will consider whether you should be barred from working with children again in the future.

The Fostering Network would be your most appropriate source of support in this instance. For more information on this see Tool Kit below and **Appendix 1 – Flowchart (IRM and DBS)**

### **Will the child be moved when an allegation has been made or 'standard of care concern' raised?**

**Most allegations do not require the child to be moved** from the placement and can be investigated whilst the child and any other child placed remains in your care.

When we first receive notice of an allegation, we will consider carefully whether any child in the household is at immediate risk of harm. It is the right of West Sussex County Council to make this decision based on the information at this moment in time.

If a child is at immediate risk of harm, we will move them to an alternative placement. In some circumstances, the person who is the subject of the allegation e.g. the carer or other member of the household, may be asked, or prefer, to leave the home in order to maintain the child's stability. There are other circumstances where the child may wish to move, or the carer feels that is untenable for them to remain for the duration of the investigation.

### **Contact with a child who has been moved from your care as a result of an Allegation or Standard of Care concern**

If a child does move from your care you may have questions about how the child is getting on, and whether it is possible for you to have any contact with them. Ask your supervising social worker, or the social worker conducting the investigation, to take this up on your behalf, with the child's social worker. The decision on what information is shared/any contact will be based on the what is right at the time for that individual child, and what confidentiality allows, and this will be explained to you by your SSW/Investigating worker.

### **Financial payments when a child is moved from your care Suspension Retainers**

If a foster carer is suspended from fostering because of an allegation of ill-treatment of a child or concerns about the standard of care they are providing, a retainer of 30% AIA of the eldest child last in placement and their skills fee at the one child rate is payable with immediate effect after suspension. This is paid for a maximum period of 13 weeks. Should the matter take longer than this to bring to a resolution (either by the carer being reinstated or by the foster carer's registration being withdrawn) an application may be made to the Exceptional Payments Panel for an extension to the payment.

### **Will I be able to continue to foster?**

Whilst there is an active investigation into an allegation or a standard of care concern, West Sussex Fostering service **will not place any additional children** with you. Any vacant placements will be put 'on hold' until the investigation is concluded.

If the matter is concluded as 'unfounded', 'malicious' or 'false' you will be able to resume fostering immediately. If the matter is concluded as 'unsubstantiated' it is likely that you will be able to resume taking children again immediately, but you will need to discuss this with your supervising social worker to consider any actions or learning needed in response to the allegation.

If the matter is concluded as 'substantiated' you will not be able to care for looked after children until the Fostering Panel have considered if continued registration is appropriate and, if it is, have confirmed that your support and learning needs are being met appropriately by the service.

Regardless of the outcome, some foster carers choose to take a break from fostering for a while and this option can be discussed with your supervising social worker.

## What about my own children?

When carrying out an investigation into allegations of abuse against a child you are fostering the local authority has a legal duty to consider the welfare of any other children in the household, including the foster carer's birth children, adopted children or children on Special Guardianship Orders.

In very serious circumstances when these children are deemed to be at risk, they would be subject to the same safeguarding procedures as any other child in the community.

## Return to Fostering Panel

If the outcome of the allegation is 'unfounded', 'malicious' or 'false', details of the allegation will be noted at your next scheduled annual review. It is expected that you and your supervising social worker will have explored the impact of the allegation and any possible learning and reflections for you and the service. This will be recorded in the review report.

If the outcome of the allegation is 'unsubstantiated' it is expected that a panel date is booked **within 3 months of the matter concluding**. The Panel will review your registration and ensure that any support and learning needs have been considered appropriately by the service, for you and the service itself.

If the outcome of the allegation is 'substantiated' it is expected that a panel date is booked **within 28 working days of the matter concluding**. The Panel will review your registration and ensure that any support and learning needs have been considered appropriately by the service. If the allegation is serious and substantiated it could result in the panel recommending deregistration, but this will depend on the individual circumstances of each case.

For a Standards of Care Investigation, it is expected that a panel date is booked for a **maximum of 8 weeks from the start of the investigation**. However, this may be vacated if the senior fostering manager overseeing the investigation decides at the end that this is no longer needed (See also Flow Chart on Standards of Care Investigations).

The paperwork presented to the fostering panel for each of the three situations above will be as follows:

- Allegation/Standards of Care Report for Fostering Panel completed by investigating SSW
- LADO outcome report (in case of Allegation)
- Most recent annual review

As with any other Panel review, you will be invited to attend with your supervising social worker and anyone else you may wish to bring for support. Panel will ask you about the circumstances around the allegation and will be looking for any learning that has occurred as a result.

## Appeals

Fostering panels make a recommendation regarding the foster carer's suitability to continue to foster, that then goes to the Agency Decision Maker (ADM). Occasionally a decision is made that the foster carer is de-registered. If so, the foster carer has the right to go to **Independent Review Mechanism (IRM)**, an independent organisation that considers appeals about registrations (See Allegations and Standards of Care flow charts and Foster Carers' Handbook for details).

## Advice and Support for West Sussex Foster carers during allegations

**Supervision:**

The investigation will be carried out by a qualified social worker. Consideration in each case will be given to whether this should be your current supervising social worker or another member of the fostering service. Sometimes it may be that your supervising social worker will be assisted by another member of the fostering service for part of the investigation. West Sussex Fostering Service will continue to provide you with access to advice and support throughout the process. Your allocated supervising social worker may be the best person to support you or you may wish to access independent help that is available.

Your allocated supervising social worker will continue to meet you, carry out supervision visits and should remain a source of emotional support. However, if it is your supervising social worker who is conducting the investigation their primary responsibility in relation to the investigation will be to conduct a fair, evidence based assessment and they will not be best placed to offer emotional support in relation to this matter.

Your supervising social worker will be responsible for liaison with all professionals involved in the investigation and will provide you with all information that they are able to share throughout the process. Whilst there is an open investigation into an allegation your social worker may not be able to give you specific details about the allegation as this could interfere with the investigation. This can cause frustration and confusion. Indeed, foster carers have described feeling that they are 'guilty until proven innocent' or have no way to defend themselves if they are not allowed details of the allegations.

Your allocated social worker will be empathetic and mindful of these frustrations. They must also be open minded to the possibility that something has happened, at the same time as being open to the possibility that it hasn't. This is sometimes a very challenging balance to strike. You will hopefully feel less 'judged' personally if you focus on the fact the local authority has a legal duty to ensure that all concerns raised about children and young people are listened to and dealt with appropriately.

**Independent Support:**

Under fostering regulations within the Children Act 2004, foster carers have a right to independent support and supervision during an investigation. This will be discussed with you when you are first made aware of the allegation/concern. Carers can request an independent advocate via their Supervising Social Worker. The advocate may be provided via Fostering Network, UFCA (our local United Foster Carers' Association) or another independent organisation. The advocate will offer guidance and you may ask them to be present for interviews and fostering panel.

You may have someone who you know, who you prefer to act as your support. In this case, you are free to make whatever arrangements you wish. It is helpful for your supervising social worker to know that you are getting this additional support and who is providing it.

**Support from Fostering Network:**

All West Sussex foster carers are members of Fostering Network as West Sussex Fostering Service pay your membership fees. This support includes a telephone helpline in the event of an allegation, as well as legal assistance should the allegation become a criminal matter. For more information please see full details in the Allegations and Standards of Care Toolkit.