

# Allegations and Foster Care in Northern Ireland: A Submission to the Children’s Social Care Services Review

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## Introduction

In August 2022 we forwarded a copy of our manifesto for foster care and offered the CSCS review team an opportunity to meet with our members concerning children's social care. One of the issues we would have liked to raise in more detail with you is policy and practice in relation to allegations in foster care. In lieu of a meeting we have prepared this written submission for the review team.

In this submission we address **allegations in foster care**. Our members would like to outline in more detail our specific concerns and recommendations concerning the policy and practice in relation to allegations, complaints and standard of care concerns made against foster carers and how these are currently managed within children's services in Northern Ireland. The following document provides an introduction followed by a series of specific recommendations. In appendix one we have provided a list of questions which we have previously forwarded to the review team with the aim of stimulating professional curiosity on this issue. Finally in appendix two we have provided a review of the current regional policy and procedure where we have made comments, queries, and suggestions.

Our members current experience of the allegations process is characterised by:

1. a lack of consideration, respect, and compassion.
2. procedural unfairness and the absence of natural justice.
3. poor communication, over reliance on verbal communication and inadequate written records and written communication during the process.
4. insufficient access to information (both verbal & written) including.
  - a. access to allegations policies and procedures
  - b. access to information concerning the nature of the allegation.
  - c. access to information concerning meetings associated with the allegation.
  - d. access to investigation reports.
  - e. access to information concerning the outcome of the allegation report.
5. Disengagement and a lack of support from social services staff.
6. Lack of clarity concerning the nature of and how to access independent support, information, advocacy, union, and legal representation by carers.

In our manifesto we highlighted the need for the Department of Health to ensure that foster carers have access to best practice regarding 'fitness to practice' processes.

We are calling on the Department of Health to:

1. Urgently conduct an independent review the "Regional Policy and Procedure for Managing Allegations and Complaints Made in Respect of Foster Carers in Northern Ireland."
2. Embed procedural fairness and principles of natural justice.
3. Directly Involve foster carers and their unions in the review of policy.
4. Provide greater clarity about the distinctions between allegations, complaints and standard of care concerns and the distinct procedural pathways associated with each.
5. Ensure foster carers and their representatives have access to all relevant material/ information to enable them to defend the allegation with the support of their representation.
6. Ensure that there is a right to independent review & appeal of the outcomes of allegations investigations before returning to fostering panel.

7. Clearly outline the duties owed to foster carers during investigations, including access to union representation, legal representation, independent support and advocacy, and ongoing remuneration while being investigated.
8. Establish a best practice check list for social services staff to ensure that foster carers are treated with fairness, dignity, and respect, during and following allegations, complaints, and standard of care concerns.

## **Suggested Improvements to the regional policy.**

Suggested improvements to Regional Policy Managing Allegations and Complaints made in respect of Foster Carers in Northern Ireland. (February 2023).

### **1. Allegations Training**

- 1.1. All foster carers should receive training on allegations, complaints, and standard of care concerns during initial training or within 3 months of first placement and every 3 years (to take account of changes) [note: this should be different from safer care training]
- 1.2. Training on allegations, complaints, and standards of care concerns to include foster carers who have experienced an allegation and can share their experience of the process.
- 1.3. Training to include potential reasons why allegations may take place including, they are true, the potential impact of previous trauma on children, using allegations against foster carers as an emotional reaction to something else (e.g. behaviour related boundary) or to achieve another outcome (e.g. return to birth parents), conflicting loyalties (RQAI 2013:19) and the potential for false & malicious allegations.
- 1.4. Training to include an explanation of the allegation process, stages of the process, what to expect at each stage. A framework with milestones and a checklist for social worker practitioners and foster carers to be established for each investigation.
- 1.5. Training to include an explanation of the investigation process, where, when and how foster carers can present information and evidence within the investigation process in order to mount a defence against any allegation, complaint or standard of care concern.
- 1.6. Training to include an explanation of the potential for use of specific safe care plans, foster children to be removed, birth children to be removed, a carer asked to leave the fostering household temporarily and exploration of what these experiences might look like in practice via interactive case studies.
- 1.7. Training to include an explanation of the risk management process so that foster carers develop an understating of any restriction that may be placed on their current fostering role. Consideration to ensure risk management and safe care plans include foster carer input, are reasonable, proportionate, and workable.
- 1.8. Training to outline the possible outcomes of investigations including the decisions that can be made by those investigating the allegation (substantiated, unsubstantiated, unfounded, false, malicious.)
- 1.9. Training to outline the financial implications of allegations and complaints and the financial policy of the Trust associated with financial support of foster carers during an investigation and the process to be followed if a reduction or termination of financial payment occurs. An outline of the appeals process associated with changes of financial payment.
- 1.10. Training to include data on current rates of allegations within the Trust and outline the action plan the Trust has in place to manage the approach to allegations and complaints against foster carers (data should be available as per reporting requirement under DSF reporting).
- 1.11. Training to include a range of inputs from agencies, unions, and legal counsel to make clear the types of support, advocacy, and representation

available to foster carers and what this looks like in practice during the process.

- 1.12. Links to additional relevant training and Trust policies that foster carers can access that will reduce the risk of allegations (e.g., safer care, managing behaviour, de-escalation, managing aggression & violence, record keeping, etc.)

## 2. Being informed of an allegation

- 2.1. The foster carer is informed verbally within 2 days (Williams 2021:109) or sooner, that an allegation, complaint or standard of care concern has been raised.
- 2.2. The allegation/ complaint should be communicated in writing to the foster carer by the manager of the Trust in writing within 5 working days of them being informed verbally. This written communication should provide a copy of a written explanation of investigation process and expected timescales, the support to be provided to the foster carer, access to independent advice and representation and financial arrangements.
- 2.3. Written communication should also make clear the date the allegation was made, the date(s) the alleged incident took place, nature of the allegation (sexual abuse, physical abuse, neglect, emotional abuse). If this information is withheld clear justification and an explanation should be provided in writing and the expected timescale for when this information will be provided.
- 2.4. The communication should ensure that a clear distinction is made between an investigation into allegations of harm and discussions over standards of care.
- 2.5. A complaint should be communicated in writing to the foster carer by the manager of the Trust fostering service within 5 working days of them being informed verbally. This written communication should make clear the date the complaint was made, who has made the complaint, the date(s) the alleged incident took place, nature of the complaint. (Note social workers are given the name of the complainant when a complaint is made to NISCC).
- 2.6. It should be made clear to a foster carer verbally within 2 days and in writing within 5 days if a complaint has been escalated to an allegation of harm.
- 2.7. Foster carers should be provided with a written copy of the relevant policies and procedures, including management of allegations policy, child protection policy, joint protocol policy, fostering standards, and their fostering agreement at the time they are informed of the allegation or complaint (these will be requested in due course by their independent support).
- 2.8. On being informed of the allegation or complaint foster carers should be advised of their right to support, advocacy, representation, and legal representation. They should be provided with a list of contact details where they can seek support and representation. It should be made clear the nature and form of support that the foster carer should expect to receive.
- 2.9. Informed (in effect cautioned) that current meeting and future meetings with social service staff can inform and be used as evidence in investigations by police and social services, risk management by social services, reports concerning review of registration and decisions concerning registration.
- 2.10. It should be confirmed that the foster carer (1) has been provided with the required polices, (2) provided with contact details of independent support,

(3) provided with information regarding consulting a solicitor, (4) Information on insurance arrangements for legal expenses.

### **3. Access to support, advocacy, union, and legal representation**

- 3.1. Foster carers should be given the same human resources, emotional and legal support that would be afforded their social work colleagues (Boffey et al 2019)
- 3.2. All foster carers should be advised of the right to support, advocacy, representation, and legal representation (Scottish Gov. 2013:18)
- 3.3. Foster carers should be provided with choice concerning their source of independent support, advocacy, union, or legal representation and not have this decided by the fostering service.
- 3.4. Foster carers who choose a different source of independent support than the one provided by Trust should not be deemed to be 'not working in partnership' with the fostering service.
- 3.5. The right to have an independent advocate, union representative, or legal representative accompany the foster carer in all meetings, foster carer reviews and foster care panel should be upheld. This role should not be limited to silent impartial support but should extend to advocacy and representation with advocates able to speak on the foster carer's behalf throughout the allegations process (from the first meeting they are informed about the allegation through to the fostering panel review or panel appeal).
- 3.6. Foster carers should be informed of the Trust complaints procedure should they have any concerns about the management of the allegation process. Foster carers should also be informed of their right to access the Patient and Client Council (PCC <https://pcc-ni.net/advocacy/>) to receive support from a PCC advocate to make a complaint and their right to refer the complaint to the NI Public Services Ombudsman (<https://nipso.org.uk/>).
- 3.7. Foster carers should be informed of the of Northern Ireland Social Care Council process for raising a concern should they have serious concerns about a Social Worker's standard of conduct or practice during the allegation and review process (<https://nisc.info/raising-a-concern/>).
- 3.8. There needs to be clear written guidance to clarify if foster carers under allegation investigation can attend foster carer support groups, training, and other events arranged by the fostering service.

### **4. On the allegation, complaint, standard of care concern investigation**

- 4.1. Are the thresholds for initiating an investigation clearly outlined. "*For no other childcare profession would the threshold to trigger an investigation be so low*" Boffey et al 2019:38).
- 4.2. Responses should be proportionate to the perceived/assessed risk to the child. Some allegations progress too quickly to a child protection investigation although no significant risk of harm appears to have been identified. Child protection investigations should not be used where there is no evidence of significant harm to a child (Scottish Gov. 2013:4 & 18).
- 4.3. Clarity should be provided to foster carers to make clear if they are subject to the same child protection procedures as parents or if a parallel process with significantly less protections and procedural fairness is used.
- 4.4. Foster or approved kinship carers against whom an allegation is made should be treated fairly and the principles of natural justice for them should



- apply (adequate notice, procedural fairness, a fair hearing, and no bias) (Scottish Gov. 2013:5).
- 4.5. The foster carers should be informed of the name of the lead professional who is conducting the investigation.
  - 4.6. During a joint investigation, the role of the respective police and social services professionals during the investigation should be clearly explained and understood by the foster carer.
  - 4.7. Foster carers should be advised in advance, know when, where and by whom interviews will be conducted (Scottish Gov. 2013:18) and given time to have their representation or legal counsel and prepare with them.
  - 4.8. During a criminal investigation under joint protocol foster carers should be advised of their right to seek legal representation, their access to legal insurance and explain how they can secure this via independent support offered.
  - 4.9. The social worker conducting the investigation should be 'independent' of the team supporting the foster carer or children/ family's social worker involved in the allegation to enable continuity of relationship with SSW's and other Trust staff (Plumbrige & Sebba 2016:6).
  - 4.10. If no 'independent' investigator is available within the fostering service, this should be conducted by a social worker from outside the fostering service.
  - 4.11. If an SSW is to be involved in the investigation (questioning the foster carer) then an alternative SSW should be appointed so as not to compromise the support role of the SSW to the foster carer. "The relationship between a foster carer and their supervising social worker is often impaired and sometimes trust is broken completely" during allegations processes (Boffey et al 2019). There should be clarification of the role of the supervising worker and the fostering service's ongoing support to the foster carer and their family (Scottish Gov. 2013:15).
  - 4.12. The role of the supervising social worker or other named representative should be to attend all strategy discussions, risk management meetings etc. **for** the foster carer and fostering family (Scottish Gov. 2013:13)
  - 4.13. Records of engagement (visits, meetings, telephone calls) which are part of the investigation should be provided to the foster carer and should be subject to 'validation of accuracy' (signature) from the foster carer to ensure that the information recorded is not misinterpreted or misrepresented.
  - 4.14. If the SSW is new to the foster carers at the time of the allegation, then the Trust should provide additional staff to support the foster carers (Plumbrige & Sebba 2016:6).
  - 4.15. If the foster carer requests that another member of the Trust's Fostering Service staff should fulfil this role, the foster carer's views should be taken into account (Scottish Gov. 2013:19).
  - 4.16. Each investigation should have a shared action plan to show who participates in resolving the investigation, their role, and explicit timeframes for action (NAFP 2021:10).
  - 4.17. A framework with milestones should be established for each investigation. The foster carer should be advised of the specific opportunities (when, where and how) they will have to defend the allegation during the investigation and given time to prepare for this with their representation or legal counsel.

- 4.18. Foster carers should be provided with an opportunity to make representation based on the final draft of the investigation report to have their views included and represented.
- 4.19. Investigations into allegations or complaints which find no evidence of harm should **not** become procedures looking into poor standards of care, these should be treated separately and this should be communicated to the foster carer (England NMS 22.10)

## 5. Communication with the foster carer

- 5.1. It is important that whoever is appointed to keep carers informed about the progress of the investigation maintains this role until the investigation has been completed (Scottish Gov. 2013:16).
- 5.2. Verbal communication of key information and decisions should be communicated as soon as possible to the foster carer verbally by their SSW and in writing by the manager of the fostering service. Subsequent communications should be provided verbally and confirmed in writing.
  - 5.2.1. Verbal notification of allegation within 2 working days
  - 5.2.2. Written notification of allegation within 5 working days
  - 5.2.3. Verbal notification of update of any strategy meeting within two working days
  - 5.2.4. Written notification of update of strategy meeting within 5 working days
  - 5.2.5. Verbal notification of update of risk management meeting within 2 working days
  - 5.2.6. Written notification of update of risk management meeting within 5 working days
  - 5.2.7. Verbal notification of any change from Joint Agency (involving police) to single agency (Social Service) investigation within 2 days working days (and vice versa)
  - 5.2.8. Written notification of change from Joint Agency (involving police) to single agency (Social Service) investigation within 5 working days
  - 5.2.9. Verbal notification of conclusion of each investigation with 2 days
  - 5.2.10. Written notification of conclusion of each investigation within 5 working days. A copy of the report of the investigation is provided to the person as soon as the investigation is concluded. In the case of multiple allegations separate reports should be provided for each allegation/ complaint and provided as each is concluded rather than a composite report or waiting until all separate investigations are completed.
- 5.3. Any decision to suspend making further placements with the foster carer while the investigation is being conducted should be communicated in writing to the foster carer by the manager of the Trust Fostering Service outlining the reason for this decision.

## 6. Investigation and resolution timescales

- 6.1. Timescales concerning completion of investigations should be specified and should be adhered to. Timescales in England suggests 21 days. (Half of all allegations were resolved in 21 days in England, a further quarter up to 50 days (NAFP 2021:3)).
- 6.2. A delay in starting the investigation could prejudice the foster carer's ability to defend the allegations (NAFP 2021:6) and should be avoided.



- 6.3. Reasons for any delay should be clearly justified and communicated to the foster carer, verbally and in writing, regular (specified frequency) updates should be provided.
- 6.4. Delays in investigation and any delay in return to panel (outside the foster carers control) should not impact on foster carers payments.

## 7. Foster carer (and their representatives) access to information

- 7.1. Foster carers should be provided with information if a child/ young person has made a previous allegation(s) before the child is placed. This information should be incorporated into the child's risk assessments, fostering household risk assessments and safe care policy in each fostering household. All fostering families should have a safer care policy which is revisited (every 6 months) in keeping with each looked after child review.
- 7.2. Foster carers should have access to all written policies and procedure that will be used during the investigation.
- 7.3. Foster carers should be provided with information support during the allegation by their SSW, this should take the form of opportunities to ask questions about the process and seek clarification when required.
- 7.4. Records of engagement (visits, meetings, telephone calls) which are part of the investigation should be provided to the foster carer and should be subject to 'validation of accuracy' (signature) from the foster carer to ensure that information recorded is not misinterpreted or misrepresented. Normal good practice would indicate that this should also be the case for ongoing supervision.
- 7.5. The fostering service should follow the national minimum standard in England and provide a copy of the allegation investigation report, "*A clear and comprehensive summary of any allegations made against a particular member of the fostering household, or staff member, including details of how the allegation was followed up and resolved, a record of any action taken, and the decisions reached is kept on the person's confidential file. **A copy is provided to the person as soon as the investigation is concluded***" (based in England NMS 22.7).
- 7.6. Foster carers should be provided with a jargon buster, abbreviations guide so they understand the terminology used during the allegation investigation process.

## 8. On having foster children and foster carers birth children removed

- 8.1. Unless there are indications that a child is at immediate risk of significant harm, decisions about removing children should be delayed at least until a discussion on this issue has taken place between designated manager, the child's social worker or senior social worker/team leader, the supervising social worker or fostering manager and the lead child protection professional (Scottish Gov 2013:9)
- 8.2. A risk assessment should be conducted before removing children from the fostering household. Considerations should be given to determine if risk assessments are robust, measured and not risk averse (Boffey et al 2019). A copy of the risk assessment should be provided to the foster carer.
- 8.3. Foster carers should be given the opportunity to respond to the allegations before any final decision is made about necessary action to protect the child and other children in the household.

- 8.4. If there is potential risk to a foster carers birth child, then parents should be consulted to explore all alternative, viable, safeguarding options before being removed from the family home and placed into care (each fostering family should have a pre-agreed contingency plan in their safe care policy/ risk assessment made in advance of any allegation to reduce anxiety concerning allegations and their impact on birth children).
- 8.5. Unless they are considered to be at immediate risk, foster children should be given time to say goodbye to the family of the carers and their friends in the local area. They should also be made aware of what opportunities there will be for maintaining contact with people who have been important to them (Scottish Gov. 2013:20).
- 8.6. Foster children removed from foster carers (their foster family) should not be left considering that their foster carers have '*abandoned them*' consideration should be given to providing a means of risk managed communication and/ or contact.
- 8.7. If children are to be removed permanently foster carers should be consulted to take account of their views regarding whether a child will return (Boffey 2019:39).
- 8.8. If children are to be removed permanently then foster carers should be informed of this as soon as possible following the decision, verbally within 2 working days and in writing within 5 working days by the Trust fostering service manager. Foster carers should not be left in doubt for longer than necessary to ease the emotional impact on foster carers.
- 8.9. Foster carers should be provided with updates on removed foster children's well-being by default. Foster carers worry 'is it frowned up to ask about the children removed?' or is it frowned upon 'not to ask about the children removed'?
- 8.10. Foster carers have anxiety about how they will be judged for displays of emotions, or no displays of emotion. Interpretation of emotional expression should take account of stress, anxiety, grief, and loss and be subject to clarification and verification with foster carers to avoid misrepresentation.

## **9. Emotional and mental health support for foster carers and their families**

- 9.1. "Foster carers should receive the same support that would be afforded their colleagues in the social work and fostering teams. *"For no other childcare profession would...the support given to those being investigated be so minimal"* (Boffey et al 2019:38).
- 9.2. The Trust fostering service should consider the difference between independent support that offers information, advice, representation, and independent support that provides emotional support. The Trust should ensure that emotional support is in place to minimise the distress and emotional harm to foster carers who are awaiting the outcome of an investigation.
- 9.3. Foster 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 about progress within the investigation (NAFP 2021:7). Therefore frequent, regular, and high-quality communication should be provided.
- 9.4. Foster carers must be provided with support to 'vent' frustration and helplessness during an investigation (Plumbrige & Sebba 2016:7). Foster

carers should have access to stress counselling or employee assistance programme counselling similar to social work staff.

- 9.5. *“Foster carers are often instructed not to speak to anyone, including their family and friends, while an investigation into an allegation is taking place. This cuts them off from key sources of support they would usually turn to in a crisis. Fostering services should relax their practice to conform to current guidance, so that foster carers are able to receive support from family and friends”* (Boffey et al 2019:41)
- 9.6. Fostering services should recognise the impact on the resilience and capacity of foster carers who have been subject to an allegation (NAFP 2021), additional supports should be put in place if foster carers are continuing to foster children during the allegation investigation. Consideration should be given to increased levels of short breaks (respite) and other forms of practical support (e.g., childcare so that foster carer can attend meetings with independent support, representation, or legal representation).
- 9.7. The Trust should recognise the impact of removing a foster child, it is essential to recognise that a foster carer will be experiencing ‘ambiguous loss’ not knowing what has happened to the child, but also experiencing ‘disenfranchised grief’ not having it acknowledged or being able to talk to others about the loss of a child or have this experience acknowledged by others. Investigators and Trust fostering service staff should take this into account when recording the emotional presentation of foster carers in records.
- 9.8. The Trust fostering service should be a ‘trauma informed service’ and the approach should be consistent with Northern Ireland Framework for Integrated Therapeutic Care for Care Experienced Children and Young People. The Trust fostering service should recognize the impact of compassion fatigue, blocked care, and burnout within the context of foster carer experience and how this might influence the likelihood of allegations. A trauma informed approach should guide the fostering services’ approach to foster carers experiencing compassion fatigue and burnout because of their fostering role. *“Compassion fatigue is very common in people who are caring for children who have experienced trauma. When there is an allegation, it is MUCH MORE likely that you will feel this way”* (CoECT 2021:5)
- 9.9. Foster carers should be provided with access to support from experienced foster carers so they can maintain contact with the foster carer community during the allegation, this will help to reduce feelings of isolation (Boffey et al 2019:42).
- 9.10. Allegations do not just impact foster carers; they impact fostering families. Fostering services need to consider the support available to foster carers birth children and others who live in the fostering household. (Plumbrige & Sebba 2016:40, Boffey et al 2019)

## **10. Financial implications concerning allegations and complaints.**

- 10.1. There should be clear written guidance for foster carers and staff, which makes clear how they will be financially supported during an investigation into an allegation, including how payments to foster carers will be managed while investigations are ongoing. Foster carers facing an allegation need a guaranteed minimum and ongoing source of income.

- 10.2. Additional expenses during an investigation (e.g. a safe care plan that requires a family member to leave the home, should be covered).
- 10.3. If there are discussions concerning the reduction of payments fees during investigations foster carers will be provided with an opportunity to make representation in advance of a decision to reduce or terminate payments.
- 10.4. Foster carers should be subject to financial detriment due to investigation delays beyond their control.

## 11. Being informed about the outcome of investigations

- 11.1. An investigation report should always be provided to the foster carer in line with England minimum standards, *“A clear and comprehensive summary of any allegations made against a particular member of the fostering household, or staff member, including details of how the allegation was followed up and resolved, a record of any action taken, and the decisions reached is kept on the persons confidential file. **A copy is provided to the person as soon as the investigation is concluded** (England NMS 22.7)*
- 11.2. It is especially important that the carers know when the process is completed, and no more enquiries are required (Scottish Gov. 2013:25)
- 11.3. Expectations for professional reflection or training recommended by the investigation report should be outlined in a written professional action plan which the foster carer should follow (if required) in advance of the initiation of foster carer review.
- 11.4. Foster carers should be given the choice if they would like to undertake professional reflection or training during the investigation process. This should not be required during an ongoing investigation given the sensitivities and stress associated with investigation process.

## 12. Foster Carer review and return to panel

- 12.1. The review of the foster carer (if required) should only be initiated, when **all investigations** have concluded and after a copy of each investigation report is provided to the foster carer.
- 12.2. The fostering manager should inform the foster carers, both verbally within 2 working days and in writing within 5 working days, of a decision to refer them to the fostering panel for a review of their approval (Scottish Gov. 2013:24)
- 12.3. The Trust fostering service should have a clear written debriefing process with foster carers following conclusion of the allegation investigation. Evaluation of the allegation process is essential before moving into the foster carer review process, reports and fostering panel (Williams 2021:134). Scottish Gov. 2013:26 also makes some suggestions on who should be involved in a debriefing.
- 12.4. In the event of a damage to the relationship between the foster carer and fostering agency an opportunity for ‘independent mediation’ should be provided before the foster carer review is initiated. (based in England NMS 22.12)
- 12.5. The foster carer should have an opportunity to complete any personal or professional reflection or training recommended by the investigation report. A reasonable timeframe should be provided for this to take place taking account of the foster carer’s emotional well-being and financial needs.

- 12.6. Foster carer reviews should not seek to find fault on the part of the foster carer following investigations that have reached a 'false', 'malicious,' 'unfounded' or 'unsubstantiated' outcome.
- 12.7. Trust fostering service failures or learning should be acknowledged in any review so that any foster carer fault is understood within the wider fostering service context.
- 12.8. If there is a recommendation to terminate the approval (de-register) of a foster carer there must be clear reasons as to how they have breached the fostering regulations, minimum standards or foster carer agreement.
- 12.9. If there is a recommendation to terminate the approval (de-register) of a foster carer based on patterns of behaviour or repeated standards of care concerns these should be explicitly outlined in the review along with how they have breached the fostering regulations, minimum standards, or foster carer agreement.
- 12.10. A 'breakdown in relationship' between foster carer and Trust fostering service or assertions of 'not working in partnership' must not be used as a reason to deregister a foster carer. Professional mediation should be provided to resolve any disputes in the relationship in advance of the conclusion of the foster carer review and fostering panel.

### **13. Upholding foster carers human rights in particular Article 6, 8 and 11 in keeping with Social Worker standards (NISCC 2019)**

- 13.1. It is important that the fostering service recognise its duties to foster carers under the Human Rights Act 1998. This compels public organisations to treat everyone equally, with fairness, dignity, and respect.
- 13.2. Article 6 protects the right to procedural fairness and a fair hearing.
- 13.3. Article 8 protects the right to respect for your private life, your family life, your home, and your correspondence.
- 13.4. Article 11 protects the right to be in and use a union. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of their interests.

### **14. Guidance and training provided to social work staff**

- 14.1. All social work staff should have training on
  - 14.1.1. the impact of allegations and complaints on foster carers and their families (Plumbrige & Sebba 2016, Boffey et al 2019).
  - 14.1.2. Management of Allegations
  - 14.1.3. Potential for human biases (Williams 2021:126)
  - 14.1.4. Power dynamics and Social GRRRAACCEESS (Williams 2021:128)
  - 14.1.5. Restorative practice (Williams 2021:136)
- 14.2. All social work staff should have training on the Impact of trauma on memory and how this relates to allegations (CoECT 2021:14-15)
  - 14.2.1. Childhood Trauma, Mixed Memories and False Allegations- (CoECT 2021)
  - 14.2.2. Effect of Trauma on Memory- Dan Seigal
  - 14.2.3. The Memory Carousel- Sarah Naish
  - 14.2.4. Implicit Memory and Dissociation – Beacon House
  - 14.2.5. Memories of Fear, Dr Bruce Perry



- 14.2.6. Replaying Memories- Naoki Higashida
- 14.3. Social work staff should have clear guidance and a checklist on what information can be provided to foster carers and should be required to check regularly what information can be given. This is essential so that foster carers are not kept in the dark about the nature and progress of allegation investigation longer than necessary (Plumbrige & Sebba 2016:7)
- 14.4. Delays should not occur due to staff absence/ cover/ leave, adequate resourcing should be made available to ensure there is no delay to allegation investigation (Plumbrige & Sebba 2016:39).

## **15. Review and monitoring of the 'Regional Policy Managing Allegations and Complaints made in respect of Foster Carers in Northern Ireland'.**

- 15.1. Policy should have a clear section on responsibilities to foster carers during an inter-agency child protection investigation (more helpful if these responsibilities are also summarised in one place (see Scottish Gov. 2013:18).
- 15.2. Policy is regularly reviewed every three years; it should be updated to reflect recent developments including the development of a trauma informed organisational approach outlined in Northern Ireland Framework for Integrated Therapeutic Care for Care Experienced Children and Young People.
- 15.3. Foster carers should be represented on the working group responsible for reviewing and finalising the policy.
- 15.4. The policy is provided to **all** fostering support organisations and foster carer unions for comment before being finalised (Coram/ BAAF, Fostering Network, Fostertalk, Foster Support, Kinship Care NI, IWGB Foster Care Workers Union, National Union of Professional Foster Carers, GMB Foster Carer Branch)
- 15.5. Allegation and complaints practice concerning foster carers is monitored at a regional level.
- 15.6. Foster carers across NI are surveyed regularly (annually or every 3 years) and given an opportunity to feedback their experience of the allegations process (confidentially). This survey should assess foster carers experience of the fairness of the process, timeliness, their access to information, promotion of their rights, their ability to make representation and have their views considered and the promotion of their personal and professional well-being during the process.
- 15.7. A record of all allegations/ complaints in Northern Ireland is reported annually to Department of Health or body responsible for regulation of foster care. This should include the numbers of allegations/ complaints, resolution timescales, record of outcomes, and any resultant deregistration.
- 15.8. The Trust fostering service should have an action plan in place to manage the approach to allegations and complaints against foster carers. Any action plan should have a system in place which helps staff identify early when the risk of allegations is heightened (poor matching, limited access to short break (respite), compassion fatigue in foster carers, high turnover of SSW or CSW associated with the foster carer or children, previous allegation(s) made by the foster child, limited access to supports for children, presence of previous challenging behaviour, current boundaries tensions related to behaviour management in the placement, proposed changes in the





placement resulting in anxiety for the child or foster carers, placement close to breakdown etc)

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## Appendix 1: FCWU Allegations/ Complaints/ Concerns Questions

A series of questions to stimulate professional curiosity about the current allegation policy and practice within the foster care system in Northern Ireland. These questions are not exhaustive, but they give a flavour of the issues that foster carers are raising concerning the foster care system within wider children's services.

1. Why is the policy the 'Regional Policy and Procedure for Managing Allegations and Complaints Made in Respect of Foster Carers in Northern Ireland' not publicly available online?
2. Why has the policy the 'Regional Policy and Procedure for Managing Allegations and Complaints Made in Respect of Foster Carers in Northern Ireland' not been updated since 2015?
3. Has the 'Regional Policy and Procedure for Managing Allegations and Complaints Made in Respect of Foster Carers in Northern Ireland' considered recent research and best practice in relation to managing allegations?
4. What direct involvement of foster carers has there been in the formulation of policy concerning allegations, complaints or standard of care concerns?
5. Is the 'Regional Policy and Procedure for Managing Allegations and Complaints Made in Respect of Foster Carers in Northern Ireland' compliant with best practice guidance from Coram BAAF from 2021?
6. Why are foster carers only informed verbally concerning allegations and the nature of the allegation? Why are they not informed in writing concerning the nature of the allegation as per best practice guidance?
7. Why are foster carers only informed verbally concerning the outcome of allegations? Why are they not informed in writing concerning the outcome of the allegation as per good practice guidance?
8. Are foster carers provided with a written copy of the report into allegations, complaints or standard of care concerns made against them as per good practice guidance?
9. Does the 'Regional Policy and Procedure for Managing Allegations and Complaints Made in Respect of Foster Carers in Northern Ireland' and current trust practice use good practice by providing foster carers with a 'debriefing' concerning allegations management before resuming fostering, undergoing a fostering review report, or returning to fostering panel?
10. Are there written explicit timeframes for the resolution of allegations and complaints against foster carers (similar to England NMS Standard 22)? Are timeframes concerning allegations and complaint investigation outcomes, monitored, and publicly reported as they are in other jurisdictions in the UK?
11. What appeals process or independent review of allegations management is available to foster carers in Northern Ireland following investigations of an allegation, complaint or standard of care concern?
12. Why is there no clear policy concerning fee payment for foster carers during allegations? Why are fee payments stopped during allegations when the timeframe for investigation slips and is outside of the control of the foster carer?
13. Why does Northern Ireland use different outcomes categorisations compared to best practice in other parts of the UK (i.e., substantiated, unsubstantiated, unfounded, false, malicious.)?
14. Why are foster carers not given a range of choice of independent support service following an allegation, complaint or standard of care concern?
15. Why does legal insurance provided by current independent support only include legal support for allegations and investigations that are joint protocol investigations and involve the police?
16. Why is legal insurance and access to legal advice not possible via current independent support organisations for single agency investigations?

17. Why are allegation outcomes not routinely monitored, reported, and published by fostering providers and the department of health as required in the Delegated Statutory Functions reporting mechanism, the UK Minimum Standards, and Department of Health circulars?
18. Is the “Regional Policy and Procedure for Managing Allegations and Complaints Made in Respect of Foster Carers in Northern Ireland” equality screened, and human rights screened?

## Appendix 2: Review of the Current Regional Policy

The following is a review of the current 'Regional Policy and Procedure for Managing Allegations and complaints made in respect of foster carers in Northern Ireland.' Comment, questions, or suggestions are addressed in red text within the current document. These comments are not exhaustive but provide a sense of our concerns about current policy and practice.

# Regional Policy and Procedure for Managing Allegations and Complaints made in respect of Foster Carers in Northern Ireland

1 April 2015

(In accordance with good governance practice could the following information be provided on the policy at the front:

- Who authored the policy (Person/ or group of people)
- Details of those consulted or advised on its creation (Care experience people, foster carers, social workers, unions, fostering organizations)
- Date on which the policy is due for renewal and who is responsible for this (usually every 3 years)
- Date equality screening or equality impact assessment completed (equality screening added to appendix)
- Date human rights screening or assessment was completed (screening added to appendix)
- Date The UN Convention on the Rights of the Child (UNCRC) screening or assessment was completed (screening added to appendix)
- Date Convention on the Rights of Persons with Disabilities (UNCRDP) screening or assessment was completed (screening added to appendix)

## Regional Policy and Procedure for Managing Allegations and Complaints made in respect of Foster Carers in Northern Ireland

### 1) Introduction

In Northern Ireland the majority of looked after children (LAC), a number of whom will have experienced trauma, abuse or neglect, are cared for by \*foster carers.

Research suggests that the vast majority of children in foster care will have a positive experience. Regrettably however, a small percentage will have an unsatisfactory experience and a smaller number may actually suffer abuse.

It is also the case that while the majority of foster carers will not experience an allegation or complaint made against them during their time as a foster carer or in the years following deregistration, a small minority will.

Where this is the case concerns should be dealt with without undue delay. While the welfare of the child is paramount it is also essential that foster carers are properly supported, **represented**, and kept informed of any investigation ~~in a timely manner~~ **within agreed timescales**.

It is currently the case that the range of fostering providers in Northern Ireland i.e. Trusts and the independent sector have a variety of policies (**it would be helpful to have a list of the policies that are relevant and overlap**) and procedures for dealing with allegations and complaints (**please distinguish between allegations, complaints and standard or standard of care concerns**) which in itself can be confusing for foster carers.

\*Foster Carers refer to all registered foster carers (kinship and non-kin) caring for LAC.

\*\* VOYPIC are commissioned to provide a range of services to all children looked after including independent support and advocacy. The Children Services Improvement Board have agreed that all LAC should be made aware of their entitlement to the Service.

\*\*\*The Fostering Network are commissioned to provide a range of support services to foster carers.



This paper, developed under the auspices of the CSIB Regional Adoption and Fostering Taskforce (where foster carers represented on this group? Can foster carers & their unions be directly represented on this group?) sets out the policy and procedures which should apply regionally and which should be adhered to by all agencies, therefore ensuring a regionally consistent approach to managing allegations and complaints made in respect of foster carers.

## 2) Policy Context

The DHSSPS has consulted on new fostering regulations which are anticipated to be in place by 2015. This policy and procedure takes cognisance of procedural requirements in the rest of the UK (allegations processes in Northern Ireland are procedurally significantly different from England, Scotland and Wales, particularly around timescales, distinction of allegations/ complaints, standards of care concerns, investigation pathways, range & sources of 'independent' support offered, representation of foster carers investigation and strategy and risk management meetings, communication with foster carers, foster carers access to information, provision of investigation reports to foster carers, notification of outcomes of meetings, access to independent investigations, access to appeals processes etc.).

A range of legislation, guidance, regulations and policies and procedures apply to children in foster care and to foster carers. For the purposes of this Guidance the following apply:

- The Children (Northern Ireland) Order 1995
- Co-operating to Safeguard Children May 2003
- The Regional Child Protection Policy and Procedures 2005
- The Foster Placement (Children) Regulations (NI) 1996
- The Arrangements for the Placement of Children (General) Regulations 1996
- Children Order Guidance and Regulations Volume 3 Family Placements and Private Fostering 1996
- Handbook of Policies and Procedures – Volume 2- Looked After Children
- Regional Guidance re: Children Missing from Care 2012
- The Representations Procedures (Children) Regulations (NI) 1996

- HSCB Procedure for the Reporting and Follow Up of Serious Adverse Incidents – April 2010
- UN Convention on the Rights of the Child 1992

(It would be important to list the Human Rights Act here as it applies to Foster Carers, in particular; Article 6 which protects the right to a fair hearing. Article 8 which protects the right to respect for private life, family life, home, and correspondence. The use of safety plans and their compliance with Article 6 is important to consider. The right to access a choice of representation and union involvement needs to be respected, Article 11 everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of their interests.)

(It would also be useful to refer to UK Minimum Standards 1998 with DoH say apply in Northern Ireland until these are replaced by new fostering standards. RQAI seem to suggest that in the absence of formal NI standards then good practice in other jurisdictions should apply, therefore the use of the Department for Education (2011) *Fostering services: national minimum standards* may be more appropriate to cite.)

(It would also be useful to refer to the Social Work Code of Conduct and Practice 2019 which applies in Northern Ireland and the relevant standards e.g., '1. protecting the rights and promote the interests and wellbeing of service users and carers & 1.2 1.2 Treating people with consideration, respect, and compassion; 1.4 Respecting and, where appropriate, representing the individual views and wishes of both service users and carers;)

(It would also be useful to refer to the Northern Ireland Framework for Integrated Therapeutic Care for Care Experienced Children and Young People, this is relevant as trauma informed practice is central to allegation management)

This policy and procedure does not supersede any of the above and staff should ensure they are familiar with existing legislation, guidance, regulation and policies and procedures.

### **3) Key Principles and Values**

Any allegation or complaint about a foster carer is a difficult and traumatic situation for all involved. Ensuring that a foster carer is treated with respect, kept informed and their views valued throughout the process is essential, whilst recognising that the child's safety and welfare **always** remains the paramount consideration and that there may be exceptional circumstances where there are on-going criminal proceedings and where it is not possible to engage in discussion with foster carers who are subject of allegations. **(All allegations seem to be treated as 'exceptional,' standard practice appears to be not to provide foster carers with information about the allegations which concern them. A better set of criteria for what are considered exceptional circumstances is required as guidance for professionals managing allegations. In addition, once criminal investigations have concluded with a decision of 'no further action' or decision by PPS not to prosecute, it is difficult to understand why there is not full disclosure of information. Social Services still appear to not provide information to foster carers concerning the allegation, excluding them from processes, this is procedurally unfair and contrary to principle of natural justice. This makes it impossible for foster carers to defend themselves against an allegation with the use of their representation (union or legal, 'only support' provided). Lack of information about allegations (only provided verbally) also causes confusion, frustration and leads to the perception that allegation is fluid and changing. There should be no doubt what the allegation, complaint, or standard of care concern is so that the foster carer and their representative can address the specific issues. Vague, fluid and changing allegations, complaints, and standard of care concerns lead to a perception of unfair treatment.**

Children have a right to be heard, to be listened to and to be taken seriously. **(We clearly agree with this position. We would also ask do foster carers have a right to be heard, listened to and to be taken seriously? At what points in the series of meetings, investigations, reports, reviews is this ensured for foster carers? Can these opportunities be more explicitly communicated to foster carers and their representatives so that they can manage their response to the allegation, complaint, or standard of care concern.)**

**Key Principles:**

- **The welfare of the child is paramount:** any allegation or concern about a child's safety and welfare must be listened to and taken seriously.
- (One of the principles missing: Foster carers against whom an allegation is made should be treated fairly and the principles of natural justice for them should apply ((1)adequate notice, (2) a fair hearing (which means representation) and (3) no bias.
- **Value and respect:** foster carers have a right to be respected and should be consulted and involved (It is more than this, it is also about consideration and compassion, foster family members could be removed, our livelihood could be a risk, this is about as serious as it gets for a foster carer. According to code of conduct and practice, Social workers "must protect the rights and promote the interests and wellbeing of service users and carers". (Our rights in this regard include our Human rights (Articles 6, 8 & 11 are particularly relevant here. Therefore, our right to a fair hearing and representation need to be respected also).
- **Timeliness:** information regarding an allegation or complaint should be provided to the foster carer (unless not to do so can be justified e.g. criminal proceedings) and dealt with in a timely fashion and within procedural timescales. Long delays in investigations or in decision making cause significant distress to children, carers and families. (Procedural timescales here appear to refer to social work processes associated with reporting (to PSNI) / Strategy meetings (Joint Protocol) etc. Do strategy meetings occur with PSNI representatives present? Timescales do not appear to refer to engagement with foster carers, this includes:
  - when they are informed about an allegation, complaint, or standard of care concern.
  - in what form they are informed? If only verbally this is problematic! Can communication be verbally and followed up in writing. For foster carers it is stressful and distressing to hear there has been an allegation, and this information is difficult to process. Foster carers should be informed in writing, this both compassionate, but also provides for clarity (a follow up letter by the Trust fostering manager is an expectation of Coram/ BAAF good practice guidance (Williams 2021). This is

important so that foster carers have accurate information and can then access independent support, advocacy, union, and legal representation. It is particularly challenging to communicate allegations to a legal representative when you have only been given this information verbally. This creates the potential for distortion and inaccurate information being passed by the foster carer to independent support and solicitors. It also makes it more difficult for a foster carer to defend the allegation.

- Updates should be regular and be verbal and in writing and should have specific expectation of what is included in the update, this should cover regular updates following risk management meetings and strategy meetings. Brief updates on children removed should also be provided by default, foster carers asking/ not asking about children should not be subject to judgement & use within investigations as foster carers are unclear as to what is appropriate in these stressful circumstances. There should be a named staff member to provide updates. The foster carer should also be aware of who is leading the investigation and who is chairing the various meetings.
- Timescales to inform about status changes in nature of process, should be informed within a specified number of working days. A change from joint agency to single agency investigation should be communicated verbally and in writing. When a police investigation has concluded, when information is sent to PPS or not, when Social Service take over an investigation or not. Communication should not be the sole responsibility of one member of staff in the Trust foster service to avoid failure to pass information onto carers. Foster carers should receive the information verbally usually from their SSW and then in writing from the trust fostering service manager.
- Timescales to inform about the outcome of an investigation again should be within a specified number of working days. An investigation report should be provided as is current practice in other jurisdictions in the UK and according to Coram/ BAAF best practice guidance (Williams 2021).

- **Proportionate responses:** responses to allegations or complaints (**standard of care concerns**) should be proportionate to the assessed risk to a child. If there has been significant harm (**is there an adequate definition of significant harm?**) or there is risk of significant harm to a child or young person and any other child/ren within the home or in close contact; then timely action must be taken to protect them. Where possible any move should be planned (**by who? Are foster carers consulted?**) in a way that minimises distress to the child, the foster family and birth family. (**Can children and foster carers be consulted about any required move associated with a risk assessment; we may have a viable short-term solution that SS have not considered. Safety plans need to be reasonable, proportionate, and workable. Can the current fostering risk assessments for children and foster families and safer care plans (which should be updated every 6 months) have 'contingencies' written into them in advance of an allegation so that children and fostering families can experience a more proactive and planned approach to safe care plans/ removal of children (if required) during an allegation investigation. This might mean foster carers feel involved in supporting the welfare of a child who has to move, and child may not feel like the foster carer has abandoned them).**)
- **Multi-agency Working:** early and full information sharing among the professionals who may be involved is critical to making sound decisions about a child's safety and welfare. Throughout any investigations the child, their family and the foster carers should be updated regularly on progress. (**Can foster carers have written guidance on what regular updates should/ could look like, being told 'we have not more information' generates anxiety. Being told the strategy meeting has taken place on this date, it has been referred to the police on this date and a risk management meeting is scheduled for this date provides foster carers with concrete milestones and the assurance that the matter is being addressed and progressed. In addition, foster carers need to be advised that they will have concrete opportunities to defend an allegation, know that these will happen, have adequate notice, so that they can prepare with their representation. Will additional supports be put in place to ensure that foster carers have time and resources to meet with their representation and prepare their response?**)



- **Independent Support:** foster carers against whom an allegation or complaint has been made should be offered independent support and advocacy via the Fostering Network. (An allegation is usually a criminal matter therefore the issue is not just support; it is ensuring that the foster carer knows how to access legal representation. Foster carers need to be advised that they are under investigation (with joint police/ SS or single SS investigations from the moment the allegation is received). Therefore, they need to be advised of their right to seek legal and union representation. In allegations with police involvement, they need to be provided with clear information about how they can access legal representation from various sources and how to access to legal insurance.

In cases of complaints or standard of care concern this is about more than support, it is also about advocacy and representation (this could be legal, union, or another support organisations (Fostering Network, National Association of Therapeutic Parents, Foster Support, National Union of Professional Foster Carers, GMB Union Foster Care branch, Foster Care Workers Union branch of the IWGB all of whom support and represent foster carers in Northern Ireland).

Also, often foster carers feel cut adrift from the Trust fostering service; could peer support be offered by fellow experienced foster carers (with experience of allegations) having someone to talk to that understands the feelings associated with the experience would be invaluable (in England this is often a role fulfilled by Foster Carers Associations). It would also be helpful not to be 'cast adrift' by the fostering community, can the Trust clarify foster carer's ability to attend events, training and fostering support groups.

Is the Trust's advice 'don't speak to anyone else' legally robust, trauma informed, realistic, compassionate? We would argue that this approach causes further distress and emotional harm. Can the policy revisit the advice Social Workers give to foster carers in this regard and consider a more compassionate approach in keeping with current good practice guidance).

#### **4) Organisational Arrangements for Responding to Allegations and Complaints**

The nature of the allegation or complaint will determine how the matter progresses e.g. under the *Protocol for Joint Investigation by Social Workers and Police Officers Of Alleged and Suspected Cases of Child Abuse – NI (2013)* and/or *The Representations Procedures (Children) Regulations (NI) 1996 (Children Order Complaints Procedure)*.

(Can foster carers have access to a user-friendly guide to Joint protocol (can this be discussed in allegations training also). It is important to break down the process so that foster carers can understand and ask clarifying questions. This is important to reduce feelings of helplessness, but also to help them understand the opportunities they have defend the allegation. Foster carers should have a clear understanding of the key milestones of any investigation of an allegation, complaint or standard of care concern.

#### **4) (a) Responding to Allegations**

Allegations will be dealt with under the *Protocol for Joint Investigation by Social Workers and Police Officers of Alleged and Suspected Cases of Child Abuse – NI (2013)*

The following should be defined as an allegation:

- Information which suggests that there has been or may have been significant harm or immediate risk of significant harm to a child/ren as a result of physical, sexual, or emotional abuse or neglect. The definition of significant harm is set out in the Protocol for Joint Investigation by Social Workers and Police Officers of Alleged and Suspected Cases of Child Abuse – NI (2013) Appendix 1. (Can this be included in written guidance that foster carers receive (and included in mandatory training) so that foster carers can understand that this is a criminal matter). Can there be some guidance for foster carers and social workers on thresholds used, how do these thresholds compare to those applied to other children services professionals and parents. How does the Trust monitor practice to ensure that foster carers are not routinely subject to lower thresholds because of risk averse practice? If

foster carers are subject to lower thresholds is this compatible with equality legislation?)

If the nature of the concern is such that the Trust (it is important that the foster carer knows there is a named lead professional, LADO in England, and knows who this is. A nameless, faceless process adds to fear and anxiety) determines (do foster carers have access to this determination? Can there be communication when this determination took place, at what meeting, who was there? Foster carers should also know how their views were sought prior to this determination if their views were presented (see Scotland guidance) and who represented their views at this meeting. If foster carer views are not presented, then there is a risk of this not being a fair hearing of evidence and therefore result in the unfair treatment of foster carer) this to be a safeguarding/child protection matter then an investigation under the *Protocol for Joint Investigation by Social Workers and Police Officers of Alleged and Suspected Cases of Child Abuse – NI (2013)* commences. The Protocol clearly sets out the procedure for the investigation.

The role of the supervising social worker is to support the foster carer and their family during the investigation (Are SSW's involved in the investigation, gathering evidence etc, if so then is this not a conflict of interest? If SSW is engaged in the investigation this is likely to cause damage to the SSW/ foster carer relationship and may damage it irreparably. Who represents the foster carers rights and interests at joint protocol, strategy meetings risk management meetings. If this is the SSW are they required to attend these meetings? Can there be clear professional guidance to SSW supporting foster carers during an allegation, many professionals will be upholding the rights of the child (principle of paramountcy), this is understood. But who will ensure that the rights of the foster carer(s) are upheld and that social work standards (2019) protecting the rights and promote the interests and wellbeing of service users and carers. Is there a potential to have clear separation of roles?), however the sharing of information may be limited due to the joint protocol investigation and possible criminal investigation (What information can be shared and when needs to be clarified. Standard practice appears to completely limit information provided to the foster carer? Limited information sharing should only be limited for a short timeframe, once the risk of jeopardising the investigation has passed the information should be shared in full with the foster carer. Foster carers

should be advised verbally and in writing when they should expect fuller information on the allegation. Excessive restriction of information sharing has a number of effects, (1) it limits the ability of the foster carer to defend the allegation, (2) it limits the ability of the foster carer to protect themselves from future allegations (e.g. revise safe care practices, refuse placements), (3) it confirms that processes are done 'onto us not with us,' (4) it damages trust between the foster carer and the Trust exposing a power imbalance by restricting information and (5) confirms that we are not trusted as professionals. The birth parents of the child will, unless in very exceptional circumstances which would require to be agreed at Assistant Director/ Director level, be advised of any investigation concerning their child.

\*\*\*On receipt of an allegation the foster carer's supervising social worker will provide them with details of the Fostering Network's advice and information service which offers independent support and advocacy (What form of advocacy do fostering network provide? Foster carers are told that Fostering Network can only provide information and only accompany and not speak on behalf of foster carer [Advocacy is defined as any action that speaks in favour of, recommends, argues for a cause, supports, or defends, or pleads on behalf of others]. It must be made clear that advocacy is available and that foster carers can choose their advocate, including alternative organisations to the Fostering Network, including union and/or legal representation.

The Trust's Fostering Panel should be notified of the allegation/s and updated on developments. (Are these the same or different updates from the updates that foster carers are provided with? How does the Trust ensure that these updates do not 'prejudice' fostering panels judgements later at panel review? Foster carers should be provided copies of the updates given to fostering panels for verification of accuracy)

Where a Joint Protocol investigation is initiated, it is important to be mindful of the requirements therein in respect of the child. Any referral to VOYPIC must take cognisance of this process and the progress of the investigation (How is foster carers personal data managed with respect to a referral to VOYPIC, is this data protection/ GDPR complaint? Has the foster carer been asked for and given permission to have their information shared with a third-party organisation. Are

VOYPIC aware of their responsibilities under GDPR. Are foster carers informed that data about them has been shared VOYPIC and that they are entitled to request any information via subject access request held about them under GDPR.)

Following the outcome of the investigation an interagency, e.g., Social Services, PSNI, meeting will be convened (are these recorded in writing and are notes/minutes available to foster carers and their representatives? It is unclear from the process what opportunities the foster carer will have to (1) provide information or make representation concerning the allegation, (2) confirm the accuracy of the information that the foster carer has provided to the investigations, (3) inspect and request changes to any inaccurate information which is held by the investigation or within these meetings).

The purpose of which is:

- To ensure that all information has been shared.
- Agree the conclusion of the investigation.
- Confirm all actions agreed have been completed.

Once the investigation has been concluded the Trust's Fostering Panel should be informed of the outcome of the investigation. (At what point is the foster carer informed? At what point does the foster carer receive a copy of the investigation report? In England, a copy is provided to the foster carer as the investigation is concluded (NMS 22.7 "A copy is provided to the person as soon as the investigation is concluded") Is there a timescale for this? Is there a format for this, can the foster carer be informed verbally and then have this information confirmed in writing by the Trust fostering service manager.).

A decision will then be made in respect of the foster carer's registration. (More clarity is needed on how this is achieved. Who makes this decision within the Trust (investigator, SSW, a Trust staff panel, a Trust Fee panel)? Are decisions about foster carer registration not made by fostering panels based on SSW reports and recommendations. At what point is this decision made? When will the foster carer have opportunity to make representation before this decision is made? Does the foster carer only have an opportunity to make representation concerning allegations, complaints, or standard of care concerns after outcome of the investigation and decision made by the Trust? If representation is only available after the decision has

been made by Trust staff during a foster carer review or Trust fostering panel, the decision has been made in advance of these process and is therefore procedurally unfair.)

Foster carers should have a copy of the panel report at least 1 week prior to the meeting of the Trust's Fostering Panel. (One week is not a reasonable time frame, especially if this is the first time that a foster carer can respond to the allegations, meet their representation with available information and prepare verbal or written representation concerning an allegation or the Trusts decision. If the decision is for the Trust is to deregister then giving the foster carer only one week to respond is procedurally unfair. Based on this current policy and practice a foster may only have limited access to information on the allegation, will not be provided with all information relevant to the allegation. If this is the case, it is unlikely that a foster carer and their representative will be able to comment in a meaningful way or defend themselves. At this point it will be too late as the investigation will have been concluded, the outcome of the investigation decided, the Trusts decision to deregister will have been made.)

Foster carers may submit their own written comments for consideration by the Panel or choose to express these verbally during attendance. (It is unclear if the format of the written or verbal comments concerns the allegation itself or the wider foster carer review. At what point do foster carers get to respond to the allegation and evidence presented against them with their representative. Is this before or after the conclusion of the investigation? If foster carers can only make representation and challenge evidence after the conclusion and outcome of the investigation, how is this procedurally fair and compliant with natural justice and Human Rights Act 1998 [Human rights act compels public organisations – including the Government, police, and local councils – to treat everyone equally, with fairness, dignity and respect. In particular Article 6,8 & 11]. When foster carers are providing comment on foster panel report (which is the SSW's report?); does a foster carer comment on the allegation(s), the police/ trust investigation process, the investigation report/ outcome (will foster carers have been informed of the investigation outcome/ outcome categorisation and provided with a report at this point), previous experience of carers suggest that they are not provided with an allegation report, nor are they informed in writing about the outcome of each allegation or complaint. Everything is

concatenated together into a confusing SSW review report with selected (potential for selection bias) information.

Foster carers should be advised that they can have independent support (What about advocacy, representation, legal representation at this point? If foster carer is the only one allowed to speak at panel, then they do not have true access to advocacy, representation and legal representation and a right to a fair hearing is being denied).

Where an investigation (Joint and or single agency) has not been completed within 4 months the Senior Manager with responsibility for the investigation should communicate directly with the PSNI Officer in Charge of the investigation to ascertain the reason for the delay and the timeframe for the completion of the investigation. (What about updating foster carers about delays? What impact will this have on foster carer fees if there is a delayed investigation or multiple investigations is there a clear policy and procedure concerning the maintenance of fostering fees. It is not fair to reduce or cease payment of foster carer fees during this period if it is no fault of their own that an investigation has been delayed? The loss of income from allowances (instantly if child is removed) and fee (if a protracted process can have a profound financial impact on fostering families.)

#### **4) (b) Responding to a Complaint**

It will be important that all staff are clear that any complaints may relate to or link with a historical allegation of abuse. In this eventuality the response should be from a safeguarding perspective and the Protocol for Joint Investigation will be applied. The Strategy Discussion will therefore inform who is to be involved and the timing of engagement with foster carers and what information can be shared. (Unclear what this means, but if a previously concluded investigation is re-opened will the foster carer be informed of this? Should a foster carer not be informed immediately or within a proscribed timeframe unless there is justification. The terminology is confusing here, would a complaint not normally be different from an allegation (no joint protocol). Does this provide for a situation where a foster carer can be under investigation, but not aware of this?). The Strategy Discussion should be chaired by a senior member of staff with a safeguarding background (is there a LADO role in



Northern Ireland, good practice indicates this should be a named professional, the foster carer should now who this person is and how to contact them) and current responsibility to ensure that requirements are appropriately discharged. The priority should be to promote the best interests of children and account must also be taken of any criminal investigations.

On becoming Looked After the Complaints Procedure should be clearly explained to children and their families (is the complaints procedure explained to foster carers concerning them on becoming a foster carer? Does the foster carer have continued access to all complaints procedures during the allegation process, are foster carers informed of this?). They should also be provided with a contact card setting out whom they may contact if they have complaint and the relevant telephone number/s. In the main, complaints made in relation to children in foster care will be dealt with under the Representations Procedures (Children) Regulations (NI) 1996 (often referred to as the *Children Order Complaints Procedure*).

Where possible the field social worker and supervising social worker should seek to resolve the complaint through the use of a problem solving approach (it would be better to have a staged complaints procedure in keeping with good practice guidance from the Northern Ireland Public Services Ombudsman, Stage one informal resolution, stage 2 formal complaint, stage 3 wider review). On receipt of a complaint the foster carer's supervising social worker will provide them with details of the Fostering Network's advice and information service which offers independent support and advocacy (does fostering network provide advocacy/ can fostering network provide advocacy? Is also about representation (this could be legal, union, or another support organisations, Fostering Network, National Association of Therapeutic Parents, Foster Support, National Union of Professional Foster Carers, GMB Union Foster Care branch, Foster Care Workers Union branch of the IWGB all of whom support and represent foster carers in Northern Ireland). It is not simply about providing details, the foster carer should be treated with consideration, respect and compassion, this would mean discussing the services available and the sort of support and representation available, including stress counselling and other

Employee Assistance Program offers, similar to those afforded and available to Social Services staff and Social Workers.)

Representation may also be made in writing to the Trust's Complaints Department by parents; foster carers etc. which will instigate the procedure. (This is unclear, and requires more detail, Trust staged complaints procedure needs to be more clearly outlined and access Patient Client Council advocates and to the NI Public Services Ombudsman <https://nipso.org.uk/>)

When a formal complaint is being pursued the time frame set out in the policy and procedures should be followed (completely unclear what these timeframes are and who they concern?)

The role of the supervising social worker is to support the foster carer and their family during the investigation (similar to above will SSW be involved in investigating, conflict of role, potential for breakdown of relationship, can clear separation of role be achieved); however the sharing of information may be limited due to the investigation (why would information sharing concerning a complaint be limited if there is no criminal investigation?). The birth parents of the child will, unless in very exceptional circumstances which would require to be agreed at Assistant Director/ Director level, be advised of any investigation concerning their child.

The Trust's Fostering Panel should be notified of the complaint and updated on developments. (This needs to be clear, so are informal complaints resolved through a problem-solving approach notified to panel, is this realistic or proportionate? Are these the same or different from the updates that foster carers are provided with? How does the Trust ensure that these do not 'prejudice' fostering panels judgements later at panel review?)

Once the investigation has been concluded the Trust's Fostering Panel should be informed and a decision (like above for allegations by whom? Investigator, SSW, a Trust staff panel, a Trust Fee panel?) made in respect of the foster carer's registration based on all the information available and not solely the outcome of the investigation. (At what point is the foster carer informed? Is there a timescale for this? At what point does the foster carer have an opportunity to respond to the complaint, be represented in their response to the complaint? At what point do foster

carers get to respond to the complaint, present evidence concerning the complaint made against them with their representative. Is this before or after the conclusion of the investigation? If foster carers can only make representation and challenge evidence after the conclusion and outcome of the investigation, how is this fair and compliant with natural justice and Human Rights Act 1998 [Human rights act compels public organisations – including the Government, police, and local councils – to treat everyone equally, with fairness, dignity, and respect. Article 6,8 & 11]. When are foster carers provided with a copy of the investigation report concerning the complaint and its outcome?)

Foster carers should have a copy of the report to panel at least 1 week prior to the meeting of the Trust Fostering Panel. (One week is not a reasonable time frame, especially if this is the first time that a foster carer can respond to the allegations, meet their representation with available information and prepare verbal or written representation concerning an allegation or the Trusts decision. If the decision is for the Trust is to deregister then giving the foster carer only one week to respond is procedurally unfair. Based on this current policy and practice a foster may only have limited access to information on the allegation, will not be provided with all information relevant to the allegation. If this is the case, it is unlikely that a foster carer and their representative will be able to comment in a meaningful way or defend themselves. At this point it will be too late as the investigation will have been concluded, the outcome of the investigation decided, the Trusts decision to deregister will have been made.)

Foster carers may submit their own written comments for consideration by the Trust's Fostering Panel or choose to express these verbally to the Panel. (Comments about what? If this the first opportunity to represent themselves after the investigation, after the outcome judgement of investigation and after the decision of the Trust, this is not a fair process? Also access to advocacy would mean that they should have access to representation, independent, union, or legal and they should be able to advocate for the foster carer).

Foster carers should be advised that they can have independent support at the Fostering Panel. (What about advocacy, representation, legal representation, being present at the panel, if foster carer is the only one allowed to speak then advocacy and representation are being denied).

On becoming aware of the complaint, the child's social worker will speak with the child/ren and/or family (given age and ability of the child) and seek agreement to make a referral to VOYPIC's advocacy service. (Similar concerns as those raised above in relation to GDPR and data protection). On receipt of the referral the allocated advocate will make contact with the child/young person within 72 hours. At the initial meeting the advocate will explain their role and seek consent from the child/ young person to be involved to ensure they understand the process, have their voice heard and are supported.

Note: if the child is under 12 and/or there are reasons for concern about the child's capacity the advocate will negotiate their involvement with the child's social worker in line with VOYPIC's Under 12 and Non-Instructed Advocacy policies.

## **5) Role of the Trust's Fostering Panel**

A review of approval may be needed when an investigation in respect of either an allegation or complaint (what about standard of care concern? How are these treated separately in the process. In England fostering minimum standard 22.10 there is a clear distinction between these) is initiated and again upon completion of the investigation. Trusts should ensure that the review and any termination of approval are undertaken in line with The Foster Placement (Children) Regulations (NI) 1996 regulation 4. (If there is a recommendation to terminate the approval (de-register) of a foster carer based on patterns of behaviour or repeated standards of care concerns these should be explicitly outlined in the review along with how they have breached the fostering regulations, minimum standards, or foster carer agreement.)

The Trust must seek and take into account the views of the foster carers in advance of the review and foster carers (and their chosen advocate) should be invited to attend the Fostering Panel (More detail required concerning representation, ability of foster carer to defend themselves against allegation or complaint (with very limited/ incomplete information), presentation of evidence). Where a decision (by whom?) is taken to terminate approval, the decision and reasons should be generally discussed (by whom?) with the foster carers before the statutory notice is issued. (If there is a recommendation to terminate the approval (de-register) of a foster carer the reason

should be explicitly outlined in the review along with how they have breached the fostering regulations, minimum standards, or foster carer agreement.)

Foster carers who are unhappy with the decision and explanation given should be advised to write to the Agency stating their dissatisfaction and the reasons for this within 28 days. Foster carers should also be offered an opportunity to meet the reconvened panel (same panel or newly constituted panel? What about new Independent Review Mechanism (IRM) within the Children and Adoption Bill 2022) within 28 days of receipt of their letter to have their views considered and the decision reviewed. (What if foster carer needs more time to gather evidence (e.g., GDPR subject access request from social services or PSNI or VOYPIC, seek legal advice?)

In some circumstances the outcome of an investigation is such that the allegation or complaint is unsubstantiated (how is this communicated to foster carer?). In such circumstances it is important that every opportunity is taken to minimise similar concerns arising in the future (how can the foster carer do this if they do not have access to the investigation report?). Any training/personal development required should be clearly identified and discussed with the foster carers. (It would be better that this is a written professional development action plan so everyone is clear about what is expected in terms of reflection and training. What about organisational learning/ failures in relation to the allegation and management of the allegation process how will this be recorded and actioned?)

**If foster carers are unwilling to participate in such training, then they should be re-refer to the Fostering Panel.** (Why is this in bold? Is this in the regulations?)

It is also important that Trusts (can we used a named role(s), Trust is very **unspecific**) are alert to any further concerns (why are you using the term concerns now how is this different from an allegation or complaint?) which may arise. Trusts must ensure that each allegation or concern (again why concern?) is fully investigated in its own right, while taking cognisance of **any previous** concerns (Each investigation should also have its own report, outcome, set of actions. A copy should be provided to the foster carer). Decision should be taken on the basis of full

information (Does the foster carer have access to full information? Have foster carers been given the opportunity to defend themselves during each investigation, during review and at panel?). How are foster carers provided with full information, do they have access to all information and how can foster carers challenge the accuracy of information held about them, if information is contested how is the contested nature of information recorded & reflected. How can foster carers challenge the accuracy or missing information if they do not have access to this information concerning the allegation or complaint in the first place? This is contrary to natural justice and fairness).

**NB** Foster carers should be advised that a record (what does a record look like England NMS 22.7 is useful here) of any complaint or allegation and the outcome is retained on their file. (If it is on the foster carers file then they should have full access to it under GDPR data protection and be able to request a copy via Subject Access Request (SAR under Article 15 of the UK GDPR))

A record of all allegations and complaints must be kept by the Trust and reported annually via the Delegated Statutory Functions (DSF) reporting mechanism. (Does this happen, Freedom of information requests to the Trusts would indicate that it does not)

The Trust should review allegations and complaints annually and the analysis used to inform future practice and learning. (Has this taken place can it be shared, the FCWU have been unable to access this information via freedom of information requests. Are allegations on the increase? Can this data be used in a meaningful way in foster carer & social work training on allegation or developing an action plan to reduce allegations. Can an analysis of the factors that lead to allegations be undertaken (poor matching, limited access to short break (respite), compassion fatigue in foster carers, high turnover of SSW or CSW associated with the foster carer or children, previous allegation(s) made by the foster child, limited access to supports for children, presence of previous challenging behaviour, current boundaries tensions related to behaviour management in the placement, proposed changes in the placement resulting in anxiety for the child or foster carers, placement close to breakdown etc)

A clear composite record of all allegations, complaints and concerns and outcomes should be contained at the front of the Foster Carers file. (Again, foster carers should be provided with a full copy of this regularly and on request under GDPR subject access request.)

## **6) Conclusion**

The majority of children in foster care are provided with safety and stability and the opportunity to reach their potential. Where an allegation or complaint is made it is essential that this is taken seriously and investigated in line with the relevant policies and procedures outlined above, taking full cognisance of the key principles set out in this paper. The importance of good communication between agencies, social workers, foster carers, parents and children is critical as is support for those directly and indirectly involved both throughout and following an investigation. In addition, any recommendations and learning from investigations should be actioned.



## **APPENDIX 1**

Protocol for Joint Investigation by Social Workers and Police Officers of Alleged and Suspected Cases of Child Abuse – NI (2013)

### **Significant Harm - Definition**

**1.20** There are no absolute criteria for judging what constitutes significant harm. However, they may include the degree, extent, duration, and frequency of harm. Sometimes, a single traumatic event may constitute significant harm, e.g. a violent assault, sexual assault, suffocation or poisoning. More often, significant harm is a series of events, both acute and long-standing, which interrupt, change or damage the child's physical and/or psychological development. Some children live in family and social circumstances where their health and development are neglected. For them, it is the corrosiveness of long-term emotional, physical and/or sexual abuse that causes impairment, sometimes to the extent of constituting significant harm.

When investigating allegations of abuse against children, practitioners need to be alert to the possibility that there may also be adults at risk of harm and liaise with Adult Safeguarding Services.