

# Wirral Fostering Service

## Allegations Against Foster Carers

IT TAKES A BIG **HEART** TO FOSTER



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## **1. Policy**

This Policy is to be followed and the actions outlined in the procedure are expected to be applied when considering a response to an allegation or complaint in respect of the care or treatment of children and young people by a Foster Carer.

All children and young people no matter within what settings or circumstances should be afforded a safe environment and free from harm. This policy is in accordance with Wirral Children's Partnership expectations and are the local requirements as to how to apply the national guidance to ensure the safe management of allegations that meets acceptable standards in investigating, collecting evidence, risk management and risk analysis.

The policy takes note of, as should the practitioner in receipt of any allegation, the relevant national guidance upon which to base any judgement are:

- Foster Carer Minimum Standards 2011 supporting the Care Standards Act 2000
- Working Together to Safeguard Children 2018, in terms of investigations and that the role of the LADO.

It also supports the professionals involved to fully evidence their decision making and contextualising events that have occurred and therefore produce a judgement and recommendations that is not solely based on whether something happened but also how and why it happened. To understand therefore the significance of the event, the impact, any likelihood of reoccurrence, as well as the severity, to ensure a proportionate judgement as to the way forward.

## **2. The LADO Role**

Further to the legislation, the key person in any investigation where threshold may have been considered to have been met is the LADO or 'DO' who is the Designated Officer for the Local Authority.

The DO/LADO is involved in managing allegations against people who work with children who are paid, unpaid, volunteers, casual, agency or anyone self-employed. Foster Carers who provide a paid service for the Local Authority where threshold is reached will be subject to their oversight.

Please note an allegation may not be specific to alleged harm in respect of fostered children or young people, but to any child or indeed their own children that carers have contact with.

LADO involvement relates to a set criteria:

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

Also be aware that the LADO will have some scope in considering becoming involved in situations that may not meet the threshold of significant harm for a Section 47 enquiry as the threshold for allegations regarding persons in a position of trust is harm, not significant harm. Recent guidance has clarified that in interpreting the above criteria because of the vulnerabilities to children where practitioners/carers are in a position of trust, a lower threshold of harm is applied. However, some preliminary analysis is expected in order for a judgement to be made as to what is a practice issue in relation to care standards, as opposed to

a breach of trust that is sufficiently concerning as to warrant LADO involvement. A clear statement is required as to the reasoning for a decision to progress to a LADO involved investigation should the lower threshold be applied, in respect of the position of trust.

Therefore, practitioners, when presented with a situation need to use their professional judgement and in discussion with their manager to reflect on the guidance below in order to determine the way forward.

The LADO will oversee the three strands relating to any concerns raised that reaches their threshold. This includes:

- The Police investigation where there is a possible criminal offence has occurred
- The enquiries made and resulting assessments by Social Care about whether a child is in need of protection or in need of additional services
- Consideration by an employer of any disciplinary action.

During this period the LADO will be available to provide advice, information and guidance to employers and voluntary organisations around allegations and concerns regarding paid and unpaid workers and will:

- Manage and oversee individual cases from all partner agencies
- Ensure the child's voice is heard and that they are safeguarded.
- Ensure there is a consistent, fair and thorough process for all adults working with children and young people against whom an allegation is made.
- Monitor the progress of cases to ensure they are dealt with as quickly as possible.

Understanding of the function and role of the LADO in implementing these procedures are key in ensuring the smooth running of any enquiries and does need to be understood by the practitioner.

### **Threshold for LADO Referral**

A practitioner in receipt of an allegation or identified concern will need to reflect upon the correct course of action. Action should be proportionate but sufficient to ensure children's needs are protected.

### **When is it a LADO Referral?**

A Practitioner will need to formulate a judgement as to how best to proceed with an enquiry presented as a concern. Essentially the degree of severity and impact on the child will be your guide when considering the way forward.

There are three lines of enquiry that can be taken. Taking no action is not an acceptable option. Concerns should always be explored, recorded and an evaluation as to the impact, should be made and recorded. This will govern supporting carers learning; ensuring a carer is not left with unexplored comments on file and will assist in identifying themes and trends which may build a picture in the future.

On that basis the practitioner will need to explore the three routes by which an issue/concern should be explored.

### **If concerns are proven but are below the LADO threshold**

Where concerns are proved but are below the LADO threshold, the Head of Service should consider whether a formal review should take place.

## **Pathway 1: Concerns regarding Conduct when Caring for a child**

The first Pathway relates to those circumstances where the nature of the concerns expressed may suggest poor care or actions are below the standards of conduct expected of a Foster Carer. This is in respect of the Fostering Minimum Standards; Foster Carer conduct as defined by the Department as actions which compromise acceptable parenting standards, modelling of a positive family experience for a child or young person, or compromised behaviour.

In discussion with your manager were you to decide that the focus of the concern relates to conduct, then enquiries are to be conducted as a Fostering Service Investigation. There is an expectation that all such reports are discussed, actions recorded and an outcome determined and recorded on the Foster Carers file. The actions and outcomes should be discussed with the Team Manager and judgement agreed.

The outcomes and recommendations made should be determined and acted upon in a timely fashion in order to ensure the Foster Carer is aware of expectations and conclusions made, minimising anxiety relating to waiting for an outcome. Actions implemented are swift to minimise risk of further concerns arising, or indeed recommended further action with regards to their status is quickly addressed.

Consideration should be given to a formal review if concerns are proved but are below the LADO threshold; the decision for this should be by the Head of Service.

### **Expected Action**

- In response to an allegation/concern a case note must be added confirming the reason why a Fostering Investigation is the most appropriate action and recorded on the Foster Carer's file, and on the child's file.
- How are actions going to be conducted and timescales in order to complete the work.
- A record should be made of the discussion with the child's Social Worker ensuring they are aware of the allegation/concern, how enquiries are conducted and timescales; confirm agreement as to the action with the Social Worker and agree the safe management of the child or young person in question.
- Activity throughout should be recorded.
- At the end of the enquiries a report should be completed detailing the original concern, what work has been undertaken, what findings have been found and recommendations as to what action to be taken. This should be put on the file for the Foster Carers and the child.
- The Fostering Manager must record on the Foster Carer file that they have seen the report and agree with the conclusions reached and recommendations made.

## **Pathway 2: Safeguarding concerns that may meet the LADO Threshold**

An allegation often comes in a range of formats and by a range of people. Where the concerns raised may potentially have elements that would meet the threshold for LADO involvement, it will be important to review the information held and consider, based on what is known, the context within which the carer has been operating and the severity and impact of the issue raised. The practitioner will need to have considered these elements and by consultation with the LADO, agree whether based on the presenting

information this needs to be overseen by the LADO or can be conducted through a Fostering Service Investigation.

If following that discussion there is a disagreement as to the way forward, the matter should be put immediately to Safeguarding and Quality Assurance Manager for resolution.

A decision has to be made as to the direction of the enquiries within at the latest 24 hours from receipt of the concern.

Should agreement that the matter be explored through a Fostering Service Investigation and work is undertaken. Yet through enquiries it becomes clear that the issues identified then reach the threshold for LADO a further consultation should occur, and the LADO process can be initiated at that point.

Consideration should be given to a formal review if concerns are proved but are below the LADO threshold; the decision for this should be by the Head of Service.

**Expected Action**

- In response to an allegation/concern a case note must be added confirming that you have reviewed the information and for the reasons identified will be consulting with the LADO.
- Discussion with LADO should be concluded, and a decision reached within 24 hours.
- The LADO will complete a LADO Consultation Form, and this is to be held on the LADO System and Foster Carer file.
- Should the LADO consultation agree the Fostering Service Investigation, the expectations in recording activity should be as described in the previous section.
- Should the LADO accept the referral the practitioner will need to complete the LADO 1 Form for submission.
- If yet to meet threshold for a S47 Strategy Meeting but LADO oversight is agreed and planning meeting is to be held within 3 working days agreeing a way forward with enquiries.
- Activity throughout should be recorded.
- A Review Meeting will be held to review findings of the enquiries and draw conclusions and recommendations ending the investigation using the LADO2 Closure Form, available on the Wirral Safeguarding Website

**Pathway 3: 'Significant Harm' threshold has been met**

Where the allegation or concern raised meets threshold for LADO oversight of an investigation. A consultation should occur confirming action and Child Protection Procedures should be initiated. Working in conjunction with the child or young persons Social Worker the matter should be proceeded with, without delay. The LADO will then be involved in overseeing the activity ensuring the investigation is conducted in a timely fashion.

**Expected Action**

- In response to an allegation/concern a case note must be added confirming that you have reviewed the information and for the reasons

identified will be consulting with the LADO.

- As allegation reaches the threshold for S47 enquiries to be conducted in conjunction with the child's Social Worker a strategy meeting should be held and Child Protection Procedures should be followed.
- Discussion with LADO should be concluded and a decision reached within 24 hours.
- The LADO will complete a LADO Consultation Form and this to be held on the LADO System and Foster Carer's file.
- LADO will attend and maintain oversight of the child protection investigation.
- Should the LADO accept the referral the practitioner will need to complete the LADO 1 Form for submission.
- In attending the Strategy Meeting the additional actions relating to employer responsibilities will also be discussed as part of that meeting.
- Activity throughout should be recorded
- Following S47 investigation enquiries having been undertaken as part of the outcomes, a review meeting will be held to review findings of the enquiries and draw conclusions and recommendations ending the investigation using the LADO2 Closure Form, available on the Wirral Safeguarding Website

### **3. Result of Enquiries where LADO oversight has been applied**

At the end of the investigation the LADO will hold a Review Meeting with professionals involved to conclude what was the outcome of the investigation, and provide a clear outline as to the reasoning for the recommendations made.

The Review Meeting may be held at a Review Strategy Meeting following the outcome of the S47 investigation having been concluded. If not possible at that time, a separate Review Meeting must however be held to conclude enquiries that have been subject to LADO oversight.

In offering clarity as to the outcomes of the investigation this will be recorded on the LADO 2 Closure Form. The information and actions will be reviewed and once completed should be placed on the Foster Carer's file and be submitted to the Team Manager and Head of Service for Fostering.

The conclusions reached are framed in a way to assist in showing the working out that led to the recommendations made. In essence for each allegation made a three-stage process is explored.

#### **Step One**

Each allegation made is explored. These can be added to, should there be additional factors of concern identified and raised during the investigation. Based on the information drawn together to conclude the investigation a finding has to be established.

Did the event happen? It is a requirement to specifically outline what can be confirmed and evidenced as having happened.

In addition, during the course of enquires should additional issues or events arise these should also be added and evidence provided for consideration.

If it didn't happen and is proven to be malicious, what is the reasoning why such an allegation had been made? Is a referral to Children's Services required?

## **Step Two**

Where an incident happened, it should be seen within the context of what was occurring at the time. By exploring the context, it assists in understanding why it happened, the likelihood of it happening again and inform how best to proceed from there, including how the risk of it happening again can be reduced.

For each action we need to consider 2 elements

### **Context**

- Was the incident as a result of deliberate action or was it an accident?
- What is the current attitude of the carer to what had happened?
- Was the carer understanding expectations or there is a clear deficit in learning?
- What is the likelihood of this happening again?
- What is the history for this carer, has there been previous incidents or concerns held?

### **Impact**

The degree of severity and the impact upon the child will also inform thinking about the most appropriate course of action.

- What was the child's experience of harm?
- What has been the impact on the child and young person's development and views?
- Was the action Criminal?
- Was the action breaching minimum standards?

All of which informs how best to proceed and that any recommendation is proportionate and fair in respect of the carer, but also reduces the risk that founded actions are mitigated against ensuring children receive an acceptable standard of care.

The outcome will either be:

- Malicious – Proven attempt to deceive
- Founded – was founded as reported and a safeguarding concern
- Unfounded – was not found as reported and not a safeguarding concern
- Unsubstantiated – on balance cannot be proved or disproved

## **Step Three**

Based on the information held in relation to the findings reached, the context within which they occurred and the impact on the child, the final stage is agreeing recommendations as to the next course of action to be taken in respect of the carer.

The areas that need to be covered involves the following:



- Identifying any criminal action being taken
- Identify any actions recommended in respect of registration, HR or disciplinary processes
- Identify any organisational learning points
- Identify any learning points for the carers
- Agree a process of feedback to the child and carers
- Identify any actions to avoid further allegations and keep the child safe
- Determine whether this can be managed as a practice issue and therefore specify the action plan or
- Does this need to be referred to the Fostering Panel?

With the production of the recommendations, that would conclude the investigation process and would then revert to internal fostering processes to implement the recommendations made and completion of the LADO2.

#### **4. Post LADO Investigation**

Following the outcome of an investigation, the Fostering Service will need to consider the findings and agree what that means for further work with the Foster Carer and in some circumstances their status as a carer. If it is agreed at the review meeting that it is a Practice Issue, then the action plan must be agreed with the Head of Service of Fostering. It will be the responsibility of the Fostering Team to ensure that the action plan is progressed.

If agreed that the concerns are such that they require oversight and independent evaluation by the Fostering Panel a report needs to be prepared by the Fostering Service and submitted to the Fostering Panel for consideration.

#### **5. The Role of the Fostering Panel**

The Fostering Service will be required to present a report to the Fostering Panel within 28 days of the outcome of the investigation re-assessing the status of the carers. With recommendations as to a proposed outcome for Panels consideration.

The Supervising Fostering Social Worker and/or the investigating Social Worker must present a report to the panel. The Manager should also be in attendance.

#### **Report for Panel – Contents**

- **Findings of the Enquiry**
  - Account of the allegations
  - The investigations
  - Subsequent recommendations
- **Carer History**
  - Information about prior placements
  - The way placements were managed
  - Foster Carers Supervision
  - Previous training and support

- **Activity Following Enquiries**

- Whether a report has been forwarded to the CPS;
- What, if any, concerns remain;
- Feelings and experience of the carer;
- Opinion of the Fostering Social Worker;
- Any implications for the safer caring agreement;
- Training issues;
- Any other issues relevant to an annual review;
- Other information relevant to the child in placement;
- Consideration of suitability and possible referral to vetting/barring scheme (DBS)
- Recommendation in respect of continued approval as a Foster Carer

Carers must be informed of the panel date and information on the complaints and access to files procedure. Carers can submit their own written comments regarding the report. In addition, Foster Carers are given the choice to attend or not, recognising this can be a very stressful and painful activity.

The panel must consider the following information prior to drawing its conclusions:

- The review report and recommendations;
- Any written submission by the carer(s);
- Minutes from any relevant child protection conference;
- The record of the concluding strategy discussion.

The panel's recommendations are forwarded, via the panel minutes, to the Agency Decision Maker. If the Decision Maker considers that the Foster Carers' Terms of Approval should remain the same, then the carers will be notified. However, if the proposal is to change the carer's terms or to terminate their approval then the Decision Maker will make a "qualifying determination". The Carer will be sent a letter and a copy of the information leaflet about the Independent Review Mechanism. Within 28 working days of receiving the letter, the carers must either:

- Confirm to the Decision Maker that they have accepted the determination; or
- Request that their case is reconsidered by the Fostering Panel; or
- Apply to the Independent Review Mechanism for a review of the case.

If the carers choose to have their case reconsidered at the Fostering Panel, they may attend the panel with the worker if they wish.

The Panel will make appropriate recommendations as follows:

- Immediate re-instatement of carer(s); if approval and use for placements has been suspended;
- Re-assessment of the carer(s) in relation to the identified concerns;
- Carer remaining on hold pending the decision of the CPS;
- Carer choosing to withdraw;
- Concerns are sufficiently serious to warrant termination of approval.

Recommendations may include changes to the approval of carers, review and/or training recommendations, implications for the Safe Care Plan, or address specific matters within the foster home.

A final recommendation about the carer's registration will be made to the Agency Decision Maker by the Panel.

If the carers choose to request a review by the Independent Reviewing Mechanism once the recommendation has been made, this will be reconsidered by the Agency Decision Maker.

If concerns were sufficiently serious to warrant termination of approval, or the carer chooses to withdraw because termination of approval is likely, then a referral has to be made to the Disclosure and Barring Service. The Disclosure and Barring Service will consider inclusion of the individual on the relevant barred list(s).

A copy of the final outcome will be placed on the carer's file.