



# Guidance on dealing with Complaints or Allegations of Child Protection and Welfare Concerns

**Irish  
Foster Care  
Association**

# Guidance on dealing with Complaints or Allegations of Child Protection and Welfare Concerns

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# Dealing with Complaints or Allegations of Child Protection and Welfare Concerns

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This document is informed by The Child Protection and Welfare Practice Handbook (HSE, 2011), Children First: National Guidance (2017), Tusla's Policy and Procedures for responding to allegations of Child Abuse and Neglect (2014), The National Standards for Foster Care (2003) and Our Duty to Care (DCYA, 2004).

*The term 'foster carer' throughout this booklet refers to all individuals and families involved in foster care in Ireland, including general, relative, emergency, day, respite, private, high support or other forms of foster care.*

## Background

As a foster carer, having any kind of complaint or allegation made against you can be one of the most stressful experiences you may encounter. The process can be quite isolating and upsetting. There are national standards and policies<sup>1</sup> in place that are there to guide and assist you in how the process works, and inform you of your right to fair and natural justice. The IFCA National Support Helpline (01 458 5123) is here for you. We can offer a listening ear, support and advice on the process.

Regardless of the reasons why a complaint or allegation is made, it is an extremely stressful situation for all involved. This information leaflet is intended to inform you of the processes that are in place in dealing with either a complaint or an allegation of Child Protection and Welfare Concerns, so that you have an awareness of how the process works.

It is important to note that despite the difficulty of dealing with such situations, ***the safety and welfare of children is of paramount concern to all involved***, both within the family unit and from professional viewpoints.

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<sup>1</sup> List of policies, national standards attached in Appendix 1

## Definitions

### Complaint

The National Standards for Foster Care (2003) define a complaint<sup>2</sup> as '*any expression of dissatisfaction about the quality, lack of, or refusal of a service that the person complaining is entitled to use*'. A complaint is not an allegation of Child Protection and Welfare Concern.

If a complaint is made against you (by a child or parent for example); or if a professional raises a concern about the standard of care you provide, these should **not** be treated as allegations. Any complaint made about a foster carer can be very stressful and you should request that your link social worker support you during any investigation of this type. If you do not have an allocated link social worker, you should request support from your local area team. You can also always contact the IFCA National Support Helpline.



## Allegations of Child Protection and Welfare Concerns

An allegation is made when there is a child protection or welfare concern that goes beyond the level of a complaint, and where it is alleged that the child has been harmed, or risks being harmed through abuse (physical, emotional or sexual) or by neglect. Reasonable grounds for a child protection or welfare concern are outlined in Tusla's Child Protection and Welfare Practice Handbook.<sup>3</sup>

Many allegations against foster carers prove to be unfounded; however, there are times when foster carers have been found to have harmed children in their care. This necessitates that allegations need to be taken seriously and investigated by Tusla, and sometimes also by the Gardaí.

Serious Welfare Concerns<sup>4</sup> are concerns that may not meet the threshold of abuse or neglect as defined in Children First: National Guidance 2017, but can have equally harmful effects on children in foster care and hence, must be investigated thoroughly.

## The Importance of Communication

Effective communication between all involved parties is essential. One of the most frequent areas of confusion relates to the distinction made between an expression of concern, a complaint or an allegation.

If a foster carer is informed of a concern about a child in their care, they should clarify with their link social worker if it is being addressed as a complaint or an allegation?

Both complaints and allegations will warrant an "investigation". Therefore, it is important to always seek clarification regarding the situation you are facing. Foster carers should always request in writing the nature of the actual investigation; is it a complaint or an allegation of child protection and welfare concern?

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<sup>3</sup> Child Protection and Welfare Practice Handbook 2011, page 30

<sup>4</sup> Tusla Alternative Care Practice Handbook, 2014: Page 203

Notification in writing is essential in order for all involved to be fully aware of the processes involved. If you have been informed by anyone that there is an allegation pending against you, be sure to follow up with the relevant professionals (your link worker or the team leader) to ensure that you receive notification formally in writing.

*Record-keeping is of critical importance in this area of work. Unless accurate records are maintained, the ability to adequately protect vulnerable children may be severely curtailed. (Children First)*

## Guidance on Child Protection and Welfare Concerns

The Tusla Child Protection and Welfare Practice Handbook has been written as a practice resource to support best practice in frontline Child Protection and Welfare work. It is based on the Children First: National Guidance (2017) and sets out the key issues in the areas of recognising abuse, responding to referrals, risk factors, assessment, planning and intervention. Children First gives guidance on defining the grounds for child protection or welfare concerns:

### What constitutes reasonable grounds for a Child Protection or Welfare Concern?<sup>5</sup>

- An injury or behaviour that is consistent both with abuse and an innocent explanation, but where there are corroborative indicators supporting the concern that it may be a case of abuse.
- Consistent indication over a period of time that a child is suffering from emotional or physical neglect.
- Admission or indication by someone of an alleged abuse.
- A specific indication from a child that he or she was abused.
- An account from a person who saw the child being abused.
- Evidence (e.g. injury or behaviour) that is consistent with abuse and unlikely to have been caused in any other way.

## If a Complaint/Allegation is made – what happens now?

What happens next will depend on the nature of the complaint or allegation, and who made it. A complaint is not as serious as an allegation and should be investigated by the fostering service itself.

When an allegation is made, all fostering services must follow the Children First: National Guidance (2017) as well as their own policy.

When an allegation of abuse or neglect or suspected abuse or neglect is raised, Tusla carries out an assessment of possible risk to all children in the foster care placement. This assessment informs the decision whether to maintain the placement or not.

Foster carers against whom allegations of abuse have been made should be informed in writing of:

- The allegation made against them, unless to do so would prejudice any Garda investigation or put the children at risk.
- The assessment procedure and regular updates of its progress.
- The outcome of the assessment and of any Garda investigation.

It is important to note that if an allegation is made against another adult member of your family, it may not always be possible or appropriate for all information regarding the allegation to be shared with you personally.

If a formal charge is made by the Gardaí, you may wish to seek legal advice. You should not give any statements or attend any Garda interview, without a legal representative. If you have taken out the legal expenses insurance cover through IFCA's group insurance scheme, you should contact the insurance company's legal advice line as soon as possible; if you cannot find a copy of the policy, contact the IFCA office for the relevant information.



As it is recognised that this is an extremely stressful process for foster carers and their children, the allocated fostering link worker will seek to support the foster carers through the process.

## Policies

Tusla's Policy and Procedure for Responding to Allegations of Child Abuse and Neglect (2014) is the National Policy for responding to and addressing such situations (also often referred to as "section 3") as advised to IFCA in August 2018.

The 2014 Policy and Procedure had previously been replaced in April, 2017 by the Tusla Interim Protocol for managing concerns and allegations of abuse or neglect against Foster Carers and Section 36 (relative) Foster Carers. This had been implemented from the 28 April 2017, but there is uncertainty regarding the parameters of its use at present.

There are currently plans by Tusla to devise a suite of new national policies regarding the management of allegations and IFCA will advise of news regarding this. Tusla should also make all carers aware of any changes or revised approaches.

As a foster carer, your fostering service should have provided you with information which outlines the steps taken during the process which will be consistent with Children First: National Guidance (2017).

Having a copy of the policy and/or the process document which details how the allegation is managed, will guide you in understanding the steps to be taken by the local Tusla area team. If you haven't already got this to hand, request it straight away. Read it carefully so you know what to expect, and can check that the policy and subsequent procedures and processes are being followed correctly.

## Will the child/children be removed from our care?

Sometimes the social work team will decide that an allegation is so

serious that it necessitates the removal of the child/children immediately from the placement. At other times they might ask a member of the household who is the subject of the allegation to move out during the investigation, so that the placement itself is not disrupted.

As stated previously the safety and welfare of children is the paramount concern for all involved, both within the family unit and from professional viewpoints.

## Outcome of Allegations

The outcome of an allegation can conclude that it is either founded or unfounded.

## Appeal Process

Tusla's National Policy (2014) provides for an appeal to the final decision of the assessment/investigation. You should be informed of this and can specifically request details of the appeal process. The appeal process will outline the relevant Tusla personnel you can appeal to. Foster carers should be given information about the Tusla complaints procedure, **Tell Us, You Say, We Listen**, which is Tusla's formal process for receiving complaints. More details on this process can be found at [www.tusla.ie/about/feedback-and-complaints](http://www.tusla.ie/about/feedback-and-complaints)

## Role of Foster Care Committee

<sup>6</sup>Following the assessment/investigation of a serious concern or of abuse or neglect against foster carers and relatives, the assessing social worker forwards a copy of the final outcome of the assessment or investigation to the secretary of the Tusla Foster Care Committee (FCC) along with the assessment report. Where the outcome suggests that Tusla can no longer ensure that the carers have the capacity to meet the child's needs, a report must be submitted to the FCC outlining the reasons for the proposed change to their approval status. The FCC is

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<sup>6</sup> HSE Foster Care Committee's Policy, Procedures and Best Practice Guidance

required to reconsider or change their approval status on the recommendation of the social work department in line with Tusla's responsibility to provide children with safe, good quality care.

Where the foster carers accept the recommendation of the social work department to change or reconsider their approval status, and there is subsequent ratification of this recommendation by the FCC, the secretary of the FCC will inform the foster carers in writing of this change.

Where foster carers do not agree with the recommendation of the social work department to change their approval status on the panel of approved carers, they will be offered the opportunity to meet the FCC to discuss the matter, or the FCC may request to meet them.

Following this meeting, if the FCC decides to change their approval status on the panel of approved carers, foster carers will be notified in writing of the decision and of their right to appeal. No final decision to change their approval status on the panel of approved carers can be made until the carers are afforded an opportunity to make a written submission and/or to have an oral hearing with the FCC. The chairperson of the FCC will invite the carers to attend a special meeting of the FCC to discuss the reason for the recommendation to change their status on the panel of approved carers within 28 days.

## Role of Tusla and An Garda Síochána

Tusla and An Garda Síochána are the key agencies empowered by law to carry out assessments and investigations, respectively, of suspected child abuse and neglect. Each agency manages the responsibility within its own brief and their combined efforts are designed to ensure that the protection of vulnerable children receives **priority attention**. However, both agencies are required to have their own Child Protection policies consistent with Children First Guidance.

An Garda Síochána has the additional responsibility of bringing

allegations of abuse to the attention of the Director of Public Prosecutions (DPP), who decides on and carries out prosecutions.

Where Tusla suspects that a child has been or is being physically or sexually abused or wilfully neglected, An Garda Síochána must be formally notified in accordance with Children First: National Guidance (2017).

Where An Garda Síochána suspects that a child has been or is being the victim of emotional, physical or sexual abuse or neglect (whether wilful or unintentional), Tusla must be formally notified in accordance with Children First: National Guidance (2017). It is not necessary for An Garda Síochána to have sufficient evidence to support a criminal prosecution before notifying Tusla.

An Garda Síochána is vested with the power to remove a child to safety under Section 12 of the Child Care Act 1991. Where a member of the Gardaí has reasonable grounds for believing that there is an immediate



and serious risk to the health or welfare of a child and it would not be sufficient for the protection of that child from such immediate and serious risk to await the making of an application for an Emergency Care Order by Tusla under Section 13 of the Child Care Act 1991, the Gardaí may remove the child.

## Support

*For children in care:* It is vitally important that children receive support throughout the process when they make a complaint or allegation or when they raise a difficulty in their placement. Children need to know they have been heard and they need to be informed of the outcome of their complaint or allegation.

*For your own children:* It is important to recognise the emotional impact on the children of foster carers against whom an allegation has been made. Support for your children can be sought through your link worker who should assist in the provision of appropriate services. IFCA can also be contacted for advice on relevant local services.

*For foster carers:* Facing an allegation or complaint is very difficult for a foster carer and the process can be very stressful. Carers need support throughout the process and after the assessment is concluded. Carers should be made aware of the following:

- Reports will be treated with the utmost regard to confidentiality and carers should be informed of this.
- The fostering link worker will support the carers through the process of the assessment.
- The fostering link worker will keep the carer updated as to the progress of the assessment and may be involved in aspects of the assessment process.
- Foster carers will be treated with respect and dignity throughout the process.

- Foster carers will be informed of the existence (if not already known) of the Irish Foster Care Association whom they can contact for support and advice.

## IFCA Support Service

The Irish Foster Care Association National Support Helpline can support and guide you in the process of dealing with a complaint or an allegation. In offering advice and support to individuals who use our service, we seek to ensure that individuals are always made aware of the relevant policies and procedures in place. Knowledge of the steps being undertaken can greatly reduce the emotional distress and confusion for the carers involved and also serves to foster an improvement in communication between all parties.

Knowledge of the rights and responsibilities one has in complying with any given policy facilitates an easier transition through what is a difficult situation for all involved.

All IFCA Helpline volunteers have completed a Certificate in Counselling & Psychotherapeutic Skills & Practice course.

**IFCA National Support Helpline runs from**  
**11am - 3pm**  
**Monday - Friday**  
**Ph. 01 458 5123**  
**Email: [support@ifca.ie](mailto:support@ifca.ie)**

## Safe Care: Protecting yourself and your family from Allegations

As a foster carer, it is possible that at some point an allegation may be made against you or a member of your family. There is no definite way to prevent this happening, but there are steps you can take to minimise the risk.

Make sure you always follow the safe care advice provided through training, your social worker and other professionals involved in the child in care's life.

IFCA has a Safe Care publication that is available through the office or online at [www.ifca.ie](http://www.ifca.ie). Safe caring helps to prevent any risk of abuse or harm, but just as importantly, helps to prevent any situations or behaviour being misinterpreted.

- Ensure you attend all the relevant training on Safe Care available from your fostering service provider.
- Your family should discuss having a Safe Care plan. This would need to be regularly reviewed or updated, including each time you have a new placement, as the children you have in placement grow and change and as circumstances in the life of the child change or difficulties arise in the placement. Your link worker should play an important role in guiding and offering assistance and support with this.



- During placement planning, make sure you find out as much as you can about the child, before they are placed with you. Request access to the child's care plan as early as possible and discuss every aspect of it with the relevant professionals. There is a need for complete clarity from the very onset. Ask the social worker about the birth parents' views on their child being in care, whether the child was sexually abused, and whether they have made any allegations in the past against foster carers and ensure that the care plan covers all these various issues and their management, should an allegation be made.
- Work to ensure that communication between you and your foster children is as open and honest as possible, based on mutual trust, so that if something is wrong, they will tell you early on.
- Record-keeping is an essential protection for you and your family. It is good practice to regularly keep notes relating to each of the children in your care, regarding access, school, health, major occurrences, etc. These should be kept confidential and secured safely.
- Self-care is paramount. If you learn to recognise when you are under stress, you can act to take appropriate action. If there is obvious tension in your home, or you feel you are experiencing difficulties with a placement, talk to your link social worker as early as possible. They should offer you additional support, training or respite care. IFCA is also available to offer advice on the possible supports that may be available independently.



# Appendix 1

## Policies and Standards

**Tusla Policy & Procedures for Responding to Allegations of Child Abuse & Neglect, 2014**, defines the threshold of significant harm for child abuse and neglect. It also outlines the process to be followed when investigating allegations of child abuse and neglect. Note: this is a general policy which makes no specific mention of alternative care nor the additional practices and considerations that may be inherent to the management of such allegations; it relates to all children, not just children in care.

**Children First: National Guidance (2017)** provides the national guidance for the protection and welfare of children in Ireland. This is a roadmap to help parents, professionals, organisations and the general public to identify and report child abuse and welfare concerns.

**National Standards for Foster Care, 2003** serve as a basis for consistently promoting quality of care in foster care services. These standards apply only to those services provided under the Child Care (Placement of Children in Foster Care) Regulations, 1995 and the Child Care (Placement of Children with Relatives) Regulations, 1995. The standards are based on the relevant legislation, regulation and guidance and best practice derived from evidence-based research and professional experience from home and abroad.

Copies of all policies and standards are available on the IFCA website: [www.ifca.ie](http://www.ifca.ie).

## Appendix 2

### Definitions of Neglect and Abuse

The threshold of significant harm for child abuse and neglect is defined in the **Tusla Policy & Procedures for Responding to Allegations of Child Abuse & Neglect, 2014**, as the ill-treatment or impairment of the health or development of a child where his or her well-being and/or development is severely affected as a result of:

- physical neglect
- emotional abuse
- actual or potential physical harm
- any form of sexual abuse or exploitation;

that has resulted from any interaction or lack of interaction, which is within the reasonable control of a parent or person in a position of responsibility, power or trust.

Harm may be caused by one, or a combination of, neglect, emotional, physical or sexual abuse as defined in *Children First: National Guidance (2017)*.

A child might be considered as safe when there are no immediate threats of serious harm present and the identified threats to the child can be managed.

When an allegation of abuse or neglect or suspected abuse or neglect is raised, Tusla carries out an assessment of possible risk to all children in the foster placement. This assessment informs the decision whether to maintain the placement or not.

## Glossary of Terms: (Tusla, 2014)

**Founded & Unfounded** – Children First: National Guidance (2017) provides guidance on actions to be taken where after an assessment or appeals process, concerns or suspicions of child abuse are considered as unfounded. Best practice in a number of other jurisdictions utilises the terms Founded or Unfounded as a way of concluding on the findings of child protection enquiries. As Children First: National Guidance (2017) does not provide any direction in respect of a term to be used to describe a concluding position on assessments where it is established that child abuse has occurred or on the balance of probability has occurred, it has been decided to use the terms Founded and Unfounded.

**Safety Plan** – A plan developed between the Child and Family Agency and An Garda Síochána in relation to the safety of a vulnerable complainant.

**Immediate serious risk** – Children First: National Guidance 2017 provides guidance in respect of responding in circumstances where a child's immediate safety is deemed to be at risk. However the term 'immediate serious risk' is not defined.

For the purpose of this policy and procedure 'immediate serious risk' refers to situations where there is an immediate or impending risk of significant harm being inflicted on a child:

**Immediate** refers to what is happening now or in the very near future.

**Serious** refers to the degree of harm that reaches the threshold of significant harm for child abuse or neglect.

**Child Abuse** – The threshold of significant harm for child abuse and neglect is defined for this policy and procedure as the ill-treatment or impairment of the health or development of a child where his or her well-being and/or development is severely affected as a result of:

- physical neglect
- emotional abuse
- actual or potential physical harm
- any form of sexual abuse or exploitation;

that has resulted from any interaction or lack of interaction, which is within the reasonable control of a parent or person in a position of responsibility, power or trust.

Harm may be caused by one or, a combination of, neglect, emotional, physical or sexual abuse as defined in Children First: National Guidance (2017).

A child might be considered as safe when there are no immediate threats of serious harm present and the identified threats to the child can be managed.

**Relevant Third Parties** – Any person who is in a position of responsibility for a child's or children's safety and well-being. This would include parents or in a case where the accused adult is a parent his or her wife/husband/partner. Also someone who is in a position of direct authority over an accused adult where this person is employed or volunteers in an organisation where they have contact with children through their work e.g. Principal of a school who has authority over a teacher, CEO of an NGO who has authority over an employee, leader of a scout group with authority over a volunteer, etc.

**Alleged Abuser** – A person who has had allegations of child abuse made against him or her.

**Complainant** – A child or adult who has made allegations of child abuse.

**Forensic Assessment** – Forensic assessment is concerned with judging how likely it is that someone will participate in antisocial or criminal behaviour. This type of assessment is most commonly undertaken when

an individual has been found guilty of a crime and there is a need to know the risk of them reoffending. Psychologists, Psychiatrists, Probation Officers and Police Officers most commonly complete these assessments utilising validated assessment tools. Decisions about sentencing and treatment options for the individual are often made by courts of law on the basis of the conclusions of an assessment. Forensic assessments are best used on a person who has been convicted or has admitted to an offence. It is not appropriate to use them outside of this context and the Child and Family Agency does not carry out or commission them in these circumstances.

**A Child** – means a person under the age of 18 years excluding a person who is or has been married (Children First: National Guidance 2017; Child Care Act 1991, Section 2).

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