



IRISH FOSTER CARE ASSOCIATION

Feedback Child Abuse Substantiation Practice
Guidance and Procedure

May 6th 2021

Irish Foster Care Association response to Tusla' Child Abuse Substantiation Policy (CASP)

1. Introduction

The Irish Foster Care Association is the National Organisation that supports foster care families and the wider foster community in Ireland. We advance and promote best practice through support, advocacy, learning and research. IFCA values the Rights of the Child and the role of the family in a child's life.

IFCA welcomes the opportunity to offer its feedback and observations on Tusla's Draft Child Abuse Substantiation Practice and Review Procedure (CASP).

2. IFCA's Observations of CASP

2.1 Clarity

The procedure offers clarity and transparency to the steps involved once an allegation of abuse is made by the complainant. The principles and application of fair procedures is welcome and offer clarity and certainty to any person against whom an allegation is made. The process offers certainty of the steps involved and ending of the process. This has not been the case heretofore.

The right for a person whom an allegation of abuse has been made to legal representation is welcome. This has not been the case to date.

The Glossary of Terminology is helpful.

The right to respond and seek a review of the outcome of an investigation into abuse is also welcome. IFCA notes that the current *Appeal* process is replaced with a Review.

2.2 Foster Carers as Extra Familial

The definition of Extrafamilial given in the Glossary of Terms is, "*Abuse occurring or alleged to have occurred to a child by a person outside of the immediate family, i.e., the nuclear family*",

Treating foster carers as extra- familial poses significant challenges within foster care, as the child in foster care who, as a complainant of abuse, in most cases, continues to live in the foster care home, and beyond if the allegation of abuse is unfounded. This has consequences for long-term placements and the potential for the relationships to be damaged is high.

29% of Relative Foster Carers provide care to children in foster care, which locates them between general foster care (unknown to the child and family) and nuclear family as proposed in the definition. The definition of “familial”, needs to clearly state where relative foster carers are positioned.

2,3 Allegations made in respect of Foster Care

It is evident that those caring for children in foster care exposes them to greater potential for allegations of abuse to be made against them. This is evidenced in the high numbers of allegations made against foster carers comparative to the general population.

To date, some foster carers have been informed that an allegation of abuse has been made against them, when the issue may be a Serious Welfare concern or Complaint. This is the experience of IFCA’s National Helpline Service and National Advocacy Service. It is positive that a clear distinction is made between Serious Welfare Concerns and Complaints and Abuse in CASP and is welcome.

The intake and initial screening process to determine if an allegation of abuse meets the threshold for Children First 2017 and within the required timeframes, will alleviate the current stressful experience for foster carers for whom if an allegation of abuse is made. The current situation for foster carers is that investigations into allegations of abuse can take considerable time to conclude.

The Procedures identify that intrafamilial allegations of abuse is responded to using Tusla’s National Framework for Child Welfare and Protection, Signs of Safety. IFCA has supported foster families who have engaged in SOS where a concern exists for a child in foster care. It is our experience that SOS does not meet the unique position of foster care.

Given the higher propensity for allegations of Abuse or Serious Welfare Concerns that can be made against foster carers because of their unique position in caring for children in care, many who have experienced traumatic childhood experiences, IFCA also proposes that a

system be developed, similar to Signs of Safety, (SOS), to identify and support instances of Serious Welfare Concerns in foster care, when it is deemed that an allegation of abuse does not meet the threshold of abuse.

We suggest that when an allegation of abuse has been stress-tested, and it is determined by Tusla that the allegation does not meet the criterion to move to the Substantiation process; that a process which involves a clear mapping of responding to Serious Welfare Concerns or Complaints be implemented to support the foster family, and within foster care. This process should seek to address issues raised, provide guidance to the foster carer, protect the child and also supports the foster carer and their family. Such a process will ultimately support the continuation of the child's placement. It will also identify the strengths of the placement and the supports required to further support it to avoid placement breakdowns.

IFCA proposes that a similar clear guidance relevant to the unique circumstances of foster care be developed for responding to Serious Welfare Concerns or Complaints by Tusla with the same clarity as CASP. This document should be disseminated to social workers and foster carers with training provided.

2.4 Relevant Third Parties

IFCA understands the need to inform relevant third parties where a person is the focus of concern to protect children from immediate serious risk. Foster carers come from many walks of life, many who work in professional sectors where their role involves direct work with children. They also volunteer in their local communities with children. Current and prospective foster carers will need to be informed of this requirement of the policy.

Stage 1 (d) of the Procedures, *"Deciding whether the report relates to the child abuse where the relevant third party will in likelihood have to be formally informed...."* will have serious consequences for foster care.

This position within the Procedure has the potential to decrease the population of existing foster carers and prevent potential foster carers from taking up the role of fostering.

2.5 Threshold of Abuse

Part 3 of CASP requires social workers to be clear in their decision making with regard to when the threshold for immediate serious risk is met. IFCA recommends that this criterion is included in the procedure.

2.6 Record Keeping

Foster carers may have multiple placements throughout their fostering career. The practice of record keeping/ foster carer diaries should be emphasised by Tusla Link Social Workers, and retraining offered to foster carers in respect of record keeping.

Records of Link social work supervision notes with foster carers should be maintained and signed by both the Link Social Worker and foster carer. Foster care reviews should be clearly documented, agreed and signed by both the Link Social Worker and foster carer.

2.7 Right of PSAA to Interview the Complainant

The right of the PSAA to interview the complainant offers fair procedures and natural justice, but equally can re- traumatise a child complainant in having to recount an adverse and damaging experience. This poses challenges in a foster care situation and where the child continues in placement. Whilst it is recognised that robust stress testing and a comprehensive investigation should serve to eliminate this requirement, the risk to the foster care placement breaking down is significant, as well as the trauma experienced by both the child in foster care and the foster carers.

Continued monitoring of the impact of this provision will be required by Tusla in the implementation of CASP.

2.9 Support for Foster Carers

Whilst CASP provides very clear guidelines for the provision of a support person and the right to legal advice, there is no doubt that the impact of an allegation of abuse made against a foster carer results in a traumatic experience for them and their family.

IFCA currently provides support to foster carers who have been the subject of an allegation and has first-hand knowledge of the impact of the experience for them. IFCA also provides counselling to those foster carers who have been negatively impacted by an allegation of abuse. We envisage that with the introduction of CASP, that the need for this support will increase and additional supports will be required.

In many instances, allegations of abuse are unfounded, and the child complainant remains in the foster care home. Services will be required to support the child and foster carer where the need to redevelop trust in their relationships will be required.

2.10 Review Panel

Section 29 of Tusla's Policy & Procedures for Responding to Allegations of Child Abuse & Neglect, : (Sept 2014) sets out the process for affording a PSAA an appeal to a decision of founded, made as a result of an investigation into an allegation of abuse outcome.

The procedure sets out the following processes involved;

29.6 The Panel in the process of its deliberations will review all documentation and submissions and will arrange to interview relevant social work personnel and the alleged abuser.

29.7 The Appeal Panel should write to the alleged abuser setting out clearly the details of any allegation being inquired into and setting out clearly the principles applicable to the conduct of the appeal. The letter should also copy documentation which the Appeal Panel has been provided with for the purposes of the appeal. 2

9.8 The Appeal Panel should ensure that fair procedures are afforded to the alleged abuser and therefore, the letter to him/her should provide:

(a) An opportunity to make any written submission within a period of 28 days of his or her receipt of the letter.

(b) An opportunity to meet either alone, or accompanied by a representative, with the Appeal Panel within a period of 35 days of his receipt of the letter.

At that meeting, he or she shall be entitled to a reasonable opportunity to:

- make any statement or legal submission
 - provide any data, documentation or information
 - provide any expert report, and,
 - have a statement provided by any person (including any expert) that is reasonably material to the appeal
- 29.9 It is important that where an appeal process is activated that there is no undue delay in the appeal process.

29.12 The Appeal Panel will then provide the Alleged Abuser with a copy of its draft report so that he or she can make representations. Following this process, the Appeal Panel will reach a conclusion.³⁴

29.13 The Chair of the Appeal panel will also write to the alleged abuser detailing the outcome of the appeals process and providing a copy of the Panels concluding report

Section 6 of CASP; Reviews, states that the review provided is, “a review for error” and not a full re-investigation. It further states that, “the review panel shall examine the professional decision-making” leading to the conclusion.

Tusla’s CASP (Pre- Implementation Document for Training Purposes) sets out in detail the steps involved in the Review process.

IFCA suggests that an information leaflet be developed for PSAA’s to outline these steps in detail.

2.10.1 Review Panel Composition

IFCA recommends that the review panel is comprised of a mix of professionals, with a percentage of them being independent experts in the field of child protection and welfare and trauma. The review panel should be independent of Tusla, and not currently employed or having worked in Tusla or the HSE in the past.

A governance committee, independent of Tusla should have oversight of the Review Panel to offer periodic robust governance of CASP’s implementation.

2,11 Mapping Process

The mapping process as set out o Appendix 1 and 2 Process Map are very clear.

IFCA proposes that a process map is set out for foster care as it deviates from this process in that the Child in Care Team, Fostering Team and Child Protection Teams are involved.

2.12 Appendices

Appendix 8- Paragraph 4, *"If I am satisfied that the information I have about you"* ... some words missing

The right to legal advice should be stated in this correspondence.

Appendix 12 (p90) The right to legal representation should be included.

3 Conclusion

IFCA welcomes the development of the clear procedures for responding to Child Sexual Abuse as set out in CASP.

- We propose that a distinct process be developed to support foster carers and children in foster care which supports them to rebuild trust in the relationship and to prevent a placement breakdown, where it is determined that an allegation of abuse is made by a child complainant in foster care has not been upheld.
- We recommend that training/retraining be given to new and existing foster carers in Record Keeping and in Safe Care.
- We suggest that notice to Third Parties be given only when the outcome of a substantiation investigation is concluded, except where it is deemed by Tusla that there is immediate harm present to children.
- We suggest that the definition of the PSAA be reviewed to take into consideration the distinct position of Relative Foster Carers
- We recommend increased support be provided to foster carers who are the subject of an allegation of abuse.

- We recommend that counselling be provided to foster carers post an outcome of an allegation of abuse.
- We recommend that the steps involved in the Review Process are clearly mapped out.
- We recommend that the Review panel be comprised of independent experts in Child Protection and Welfare and are Trauma Informed and who are/not employees of Tusla or have previously been employed in the HSE.
- We recommend the establishment of a Governance oversight group, independent of Tusla to periodically review the decisions of the Review Panel to offer a robust application of CASP.
- We suggest that a mapping process be set out for foster care.
- We recommend that training be given to all foster carers in the new Guidelines and Procedures when finalised.

IFCA recognises and acknowledges the work invested in the development of the CASP Guidance and Procedures by Tusla.

ENDS

