

Guidance for children's homes providers: notifying Ofsted of a serious event

Notifications under Regulation 40 (safeguarding notifications) of the Children's Homes (England) Regulations 2015

Published: April 2018

Reference no: 180021



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Introduction

1. The intention of regulation 40 in the Children's Homes (England) Regulations 2015¹ is to focus providers on only sharing information with Ofsted, as the regulator, about the most serious incidents. This should have reduced the number of notifications you are required to send to Ofsted.
2. However, the number of notifications has continued to increase and many of the notifications we receive do not fall into the category of 'serious'.
3. This guidance sets out our expectations in respect of notifications and is intended to help you reduce the number of notifications you send to Ofsted.
4. Guidance has been issued to inspectors to support this.

What do regulation 40 and the 'Guide to the Children's Home Regulations, including quality standards'² say?

5. Sections 1–3 of the regulation are clear. You must notify Ofsted if:
 - a child dies
 - a child is involved in or subject to, or is suspected of being involved in, or subject to, sexual exploitation (You should be able to provide evidence as to why you believe this to be the case)
 - there is an allegation of abuse against the home or a person working there
 - a child protection enquiry involving a child is instigated or concludes
 - there is a referral of a person working in the home pursuant to section 35 (Regulated activity providers: duty to refer) of the Safeguarding Vulnerable Groups Act 2006.³
6. In these circumstances, you must notify Ofsted. It is appropriate for an inspector to make a requirement if one of these incidents has occurred and you have not notified us.

¹ Regulation 40, Children's Homes (England) Regulations 2015; www.legislation.gov.uk/ukxi/2015/541/regulation/40/made.

² Guide to the Children's Homes Regulations, including the quality standards, Department for Education, April 2015; www.gov.uk/government/publications/childrens-homes-regulations-including-quality-standards-guide.

³ Section 35, Safeguarding Vulnerable Groups Act 2006; www.legislation.gov.uk/ukpga/2006/47/section/35.

Notification updates

7. A significant number of the notifications we receive are updates to previous incidents. These are 'counted' as new notifications for data purposes. You are not required (by regulation) to send updates to notifications.
8. The most frequently sent updates are in relation to child protection enquiries. Regulation 40 requires a notification when a child protection enquiry involving a child is **instigated or concludes**. It does not require several notifications providing updates of the enquiry or allegation.
9. There may be occasions when an inspector will ask you to send in an update following a serious incident because this would be helpful in understanding what has happened and the action that you have taken. In these situations, the inspector is likely to ask you to communicate by email rather than a series of further notifications.
10. Updates are not required unless they refer to a significant development. There is no legal requirement to keep notifying Ofsted as a case progresses.

What is meant by 'serious'?

11. We receive the highest volume of notifications where:
 - an incident requiring police involvement occurs in relation to a child which the registered person considers to be serious
 - there is any other incident relating to a child which the registered person considers to be serious.
12. The Oxford English Dictionary defines 'serious' as:

'significant or worrying because of possible danger or risk; not slight or negligible'.
13. The line between what is serious and what is not can be blurred and is always a matter of judgement. It depends on many factors, including age of the child, frequency of the incident, injuries sustained, any additional needs the child has, the context of the home and so on. In some instances, the cumulative effect of frequent incidents may make a notification appropriate even if in isolation each event would not warrant this.

14. The 'Guide to the Children's Homes Regulations, including the quality standards'⁴ helpfully provides examples of incidents that are likely to be considered serious:
 - a child being the victim or perpetrator of a serious assault
 - a serious illness or accident
 - a serious incident of self-harm
 - serious concerns over a child's missing behaviour, particularly where the child is considered to be at grave risk due to age or vulnerability or where they have been missing for a considerable period of time and their whereabouts is unknown.
15. You should also have in place a system for notifying responsible authorities of any serious concerns about the emotional or mental health of a child such that a mental health assessment would be requested under the Mental Health Act 1983.⁵
16. This is not an exhaustive list and you must assess each case individually, taking into account any patterns of behaviour or unusual behaviour that may indicate an increased risk to the child.

'Without delay'

17. Regulation 40 states 'the registered person must without delay notify...'. Clearly, a notification concerning a child's death should be notified 'without delay'. However, you should take a proportionate approach towards other incidents and the timeframe of notifying Ofsted. It may be that you need sufficient time to collect further information before you consider it to be an incident serious enough for a notification.
18. You should not receive requirements where a delay has been appropriate.

On inspection

19. The purpose of regulation 40 is to ensure that Ofsted and other agencies are notified of significant events.
20. The Ofsted inspector should discuss incidents with you during your inspection to gain a shared understanding of the incident and what actions were taken by staff to address the situation. This conversation should be wider than the

⁴ Guide to the Children's Homes Regulations, including the quality standards, Department for Education, April 2015; www.gov.uk/government/publications/childrens-homes-regulations-including-quality-standards-guide.

⁵ Mental Health Act 1983; www.legislation.gov.uk/ukpga/1983/20.

process of notifying (or not notifying) Ofsted and should focus as well on safeguarding practice and outcomes for children.

Quality of notifications

21. The quality and content of reports under regulation 40 vary considerably. Notifications should be evaluative and not merely a chronology of events. Vital information, especially the action taken, is often missed from the notification. An inspector needs to know a brief summary of the event, the actions taken by staff and managers at the time, and further actions planned to reduce the likelihood of a similar incident occurring again. This is intended to reassure us, as the regulator, that the matter is being appropriately managed.
22. Registered managers and providers are responsible for the quality of the reports completed by their staff.

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