



# Office of Children and Family Services

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## Local Commissioners Memorandum

<b>Transmittal:</b>	21-OCFS-LCM-18
<b>To:</b>	Local District Commissioners of Social Services Local District Directors of Services Local District Family-Type Home for Adults Coordinators
<b>Issuing Division/Office:</b>	Child Welfare and Community Services Bureau of Adult Services
<b>Date:</b>	June 17, 2021
<b>Subject:</b>	<b>Communication Protocol for Abuse/Neglect Investigations of Family-Type Home for Adults</b>
<b>Contact Person(s):</b>	See section IV.
<b>Attachment:</b>	N/A

### Filing References

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
15-OCFS-ADM-08 13-OCFS-ADM-09			Exec. Law §553(28) SSL §488-497; Chapter 501 of the Laws of 2012		Justice Center website: <a href="http://www.justicecenter.ny.gov/">http://www.justicecenter.ny.gov/</a>

### I. Purpose

The purpose of this Local Commissioners Memorandum (LCM) is to advise local social services districts (districts) of their responsibilities during an abuse/neglect investigation of a Family-Type Home for Adults (FTHA).

### II. Background

FTHAs are adult care facilities in which an operator provides residential care, personal care, and/or supervision services in the operator's own home to four or fewer adults (residents) who are not related to the operator.

An FTHA provides a home-like living environment. It is a community-integrated and supported housing alternative for dependent adults who cannot live alone any longer due to advanced age, developmental disabilities or physical/mental health, but do not require skilled medical or nursing services.

The New York State Office of Children and Family Services (OCFS) Bureau of Adult Services (BAS) certifies and regulates FTHAs. OCFS has delegated oversight and supervision responsibilities to the districts, who assign an FTHA coordinator to such duties.

Moreover, as an adult care facility that is certified by OCFS and cares for vulnerable persons, FTHAs fall within the purview of the New York State Justice Center for the Protection of People With Special Needs (Justice Center). The Justice Center's authority includes investigating allegations of abuse, neglect, and other significant incidents that occur in facilities or programs under its jurisdiction.

Depending on the severity and nature of an allegation of abuse or neglect in an FTHA, the Justice Center may conduct the investigation itself or may delegate investigatory responsibility to OCFS. If delegated to OCFS, a child abuse prevention specialist (specialist) from the appropriate OCFS regional office will conduct the investigation.

Regardless of which agency conducts the investigation, the OCFS regional office specialist must develop a safety plan within 24 hours of being notified of the report of abuse or neglect at an FTHA. Allegations of abuse/neglect within FTHAs may include the operator of the home as the subject of the report, which creates a level of complexity within the investigation. The regional office specialist must rely on the operator to implement and sustain any safety plan that is developed, which includes the operator safeguarding a resident for whom they may have allegedly abused/neglected.

Cooperation and partnership with the district during the investigative process is integral to monitoring the safety and well-being of the resident(s) within the FTHA and securing any documentation required throughout the investigation.

### **III. Program Implications**

When the Justice Center accepts a report of abuse or neglect at an FTHA and assigns the investigation to OCFS, the regional office specialist will contact the district FTHA coordinator directly to notify them of the investigation; instruct them not to discuss the allegations with the operator, unless given permission to do so, and inform them of the investigative process and need for collaboration. The district will be asked to provide any relevant contact information they maintain on the FTHA to the respective regional office specialist. The district FTHA coordinator may be asked, if appropriate, to assist the regional office specialist with the development of a safety plan.

Based on the nature of the allegations and/or if there are immediate safety concerns for the resident (subject) and/or others in the home, the regional office specialist must advise the district FTHA coordinator of such concerns and will advise the FTHA coordinator to visit the home immediately. If the above noted concerns exist and the complaint is received after hours, the regional office specialist should contact local law enforcement to conduct a safety and well-being check and use their discretion to determine if a visit to the FTHA by the regional office specialist is required to complete the 24-hour safety plan.

The district FTHA coordinator and BAS staff must be advised immediately of any safety concerns where resident relocation must occur. During regular business hours, the regional office specialist should contact Anthony Lareau at [Anthony.Lareau@ocfs.ny.gov](mailto:Anthony.Lareau@ocfs.ny.gov) ; for after hours, contact Shelly Fiebich [Shelly.Aubertine-Fiebich@ocfs.ny.gov](mailto:Shelly.Aubertine-Fiebich@ocfs.ny.gov), (518) 929-0325.

The district FTHA coordinator must visit the home once the 24-hour Safety Plan is developed to provide an overall safety assessment of the residents/home and issue any violations if necessary. This should be completed within one business day of the initiation of the 24-hour Safety Plan.

It is important to note that allegations contained within Justice Center reports may not be used to initiate an Adult Protective Service (APS) referral. However, in the scope of the investigation, the regional office specialist or the district FTHA coordinator can make a referral to local APS if concerns arise outside the scope of the Justice Center investigation and fit within APS criteria.

The district FTHA coordinator may be required by BAS to conduct weekly visits to the FTHA, where appropriate, to verify that the Safety Plan is maintained and monitor the safety and well-being of the residents in the home.

The district FTHA coordinator should NOT make any modifications to the Safety Plan established by the regional office specialist. If the district believes that a modification to the Safety Plan is warranted, it must communicate any concerns directly to the regional office specialist. If there are any modifications needed, the regional office specialist will be responsible for those modifications and will communicate any changes directly to the FTHA operator, even on Justice Center-led investigations. Upon a modification of the Safety Plan, the regional office specialist will share the updated Safety Plan with the district FTHA coordinator and the BAS staff assigned to that county.

The district FTHA coordinator may be required to assist in securing supporting documentation on behalf of the assigned regional office specialist or Justice Center investigator. For a Justice Center-led investigation, BAS will facilitate the initial communication between the Justice Center investigator and the district FTHA coordinator. The district FTHA coordinator must cooperate fully with the assigned investigator, regardless if it is an OCFS regional office or a Justice Center-led investigation and must provide/secure any available information or documentation requested.

The district FTHA coordinator must complete a full inspection of the home within 30 days of the initiation of the abuse/neglect investigation. Any violations and/or safety concerns observed in the home must be documented. If immediate safety concerns are noted, they must be addressed while the FTHA coordinator is on-site. The operator should be cited for any violations and issued a corrective action, which the district FTHA coordinator should follow up on as necessary. If while conducting the full inspection, the district FTHA coordinator becomes concerned that violations noted or information gathered may impede or interfere with the ongoing investigation, the coordinator must immediately contact the lead specialist/investigator to relay their concerns. The OCFS regional office specialist/Justice Center investigator will provide the district FTHA coordinator instructions on how to proceed.

Upon completion of the investigation a corrective action plan (CAP) may be required by OCFS or the Justice Center. The FTHA operator will be notified via a letter of the findings. The operator is required to complete a CAP and forward the plan to the regional office, which in turn will forward the CAP to the BAS Justice Center liaison and district FTHA coordinator. The operator must implement the CAP within 30 days of approval. The BAS will review the

CAP and verify with the district FTHA coordinator that the CAP is appropriate and authorize approval.

The district FTHA coordinator must confirm that the CAP has been implemented and completed via a visit to the home and/or through receipt of supporting documentation. The district FTHA coordinator must advise the assigned BAS representative of the status of CAP. Once completion has been verified, BAS will close out the CAP.

**IV. Contact Persons**

Any programmatic questions should be addressed to the appropriate Bureau of Adult Services regional liaison:

BRO – Lisl Maloney

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***/s/ Lisa Gharthey Ogundimu***

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