

IN THE CROWN COURT AT PRESTON

Rex

-v-

KAREN FOSTER

SENTENCING REMARKS

1. Karen Foster you may remain seated until I tell you to stand.
2. Harlow Collinge was a healthy, happy and much loved 10 month old when he was dropped off at your home by his mother on 1st March 2022. She had been using your child minding services for some 6 weeks, but not without some concerns. You had been a Ofsted registered child minder for approximately 9 years and were aged 61 years old. You should have been a very safe pair of hands into which Gemma Collinge could place her child. You were not.
3. Within two and a half hours of being dropped off by his mother, Harlow had sustained devastating injuries which caused him to go into cardiac arrest. He was taken to hospital but never regained consciousness. He had suffered precisely the type of injuries that the treating doctors would expect to see in cases of non-accidental shaking injury. After consultation with his parents, whose agony can only be imagined, Harlow's intensive care was withdrawn, and he pronounced dead at 13.30 on 5 March 2022.

As they have movingly described, for his parents, siblings and grandparents Harlow was a little treasure and his loss is a tragedy the effects of which will never diminish. Nothing can be said or done to ease what is a life sentence of grief for them. The sentence I will impose on you will come to an end ; theirs never will.

4. At 1.14 pm that day you called 999 and said that Harlow was not breathing and that you thought he was choking, having suffered a fit and was not breathing. This was not truthful. He had not choked ; you had violently shaken him. Following instructions you administered CPR. When the paramedics arrived you said that he had not choked but had finished his dinner and the next minute collapsed and also that he had been eating and had become floppy, drowsy and unwell. You gave a different but equally untrue account over the phone to Harlow's mother Gemma Collinge and told her that that Harlow had choked on pasta, had stopped breathing, and that you had been trying to resuscitate him. Questioned by the Doctors who were struggling to reconcile what you were saying with Harlow's condition you said that he had not choked but had finished eating when as you picked him up from his highchair, he became stiff and stopped breathing. You then slapped him on the back several times and commenced CPR.
5. When Police officers asked how many children you were looking after you said it was three ; Harlow and two children aged 4. You knew that this was not accurate account

as you were also looking after an 11 month old child. By having four children under five and also having two children under 12-month-old children, you were in breach of the Ofsted rules.

6. The medical picture began to emerge as test progressed. Harlow had suffered serious and irreversible brain damage with numerous areas of bleeding, the significant effects of a lack of oxygen and extensive swelling.
7. You were arrested and interviewed. You denied having done anything to cause Harlow's injuries, but expert analysis was telling a very different story. The widespread brain damage must have been caused by a serious head injury which led to cardio-respiratory arrest. The brain injuries were in keeping with severe acceleration/deceleration type injury, or a 'shaking type injury', such shaking being outside the normal handling of a child and markedly excessive and inappropriate. There was also bleeding into the spinal column and bleeding in the nerve roots extending down the length of the spine, injuries commonly associated with the vigorous shaking. Imaging revealed bleeding behind both his eyes. Again this is typical of severe head injury caused by shaking. One finding, of perimacular retinal folding, was an indicator that the injuries were at the extreme end of what is usually seen in abusive head trauma.
8. So the combination of injuries Harlow had sustained suggested forceful shaking and /or shaking with impact. There was no evidence that Harlow had choked and being slapped on the back would not have caused such injuries. However as this evidence emerged you still denied causing him any injury, a stance you were to maintain to the morning of the trial.
9. The experts also found other injuries to Harlow's left ear and fractures to his ribs and sternum. I cannot be sure when and how these injuries were caused and I disregard them.
10. During that first interview on 2nd March 2022 you again failed to accurately disclose how many children you had been looking after. You were interviewed for a second time after Harlow had died on 15th July 2022. This was after you had time to reflect on what you had done yet again you repeated that you were not responsible for Harlow's death and had not caused him any injuries. You denied that you had lost control and said there had been no accident.
11. Despite the overwhelming evidence against you it was only on the morning of the trial that you admitted assaulting Harlow that morning by violently shaking him.
12. In your basis of plea you state that you were under enormous strain at the time, in regular pain with your hip and shook Harlow in frustration. However this explanation needs to be put in its proper context.
13. You told Ofsted in 2014 and later the Police in interview that there was nothing about your health that prevented you from safely caring for the children you minded. However in 2018 and in February 2022 you had applied for the benefit of Personal

Independence Payment. The picture painted in those applications was that you were very significantly disabled. In the 2018 application form you stated that you felt constantly drowsy and tired, that sometimes she could barely move, or safely carry out daily living activities. You gave the impression that you barely went out. This was all repeated in your 2022 application, just days before Harlow's death. In that application you described overwhelming fatigue, having excruciating pain in your feet, that you needed help going to the toilet and that you could not longer cook or even cut up your own food. So others had to provide care for you. This was description a world away from you caring for others, let alone children.

14. You now say only that at the time of Harlow's death you were in regular pain with your hip. Only you know the full truth of your physical condition, but clearly you have not told the truth to a significant degree at some stage. It is not credible that you were as disabled as you claimed in your benefit claim, but your recent admission of pain and your medical notes (which refer to lumbago, sciatica, heart failure and joint pains including in the hip) do show that you had significant physical issues which would have significantly impacted on your ability to look after several small children at once, with the movement, lifting and carrying that entailed. You chose to work on despite your health issues.
15. You also chose to breach Ofsted rules and care for too many small children with the demands that they bring. The rules are there for good reason ; to ensure the safety and welfare of children.
16. You say that you were under considerable pressure financially. The way out of that pressure was not to work when you were not fit to do so and also to take on the care of more children that you were supposed to. You brought the enormous strain you refer to on yourself and in so doing put Harlow at risk of harm. I have no doubt that you snapped on 1 March 2022 in part due to the fact that you were was not coping easily with demands of caring for four children, two of them under twelve months.
17. I am sure you found caring for Harlow and the other children difficult that morning. You say that Harlow was grisly ;babies and young children often are and parents cope with it day in and day out. You were an experienced child minder holding yourself out as specialist carer. There was nothing exceptional in Harlow's behaviour, rather it was the pressure and difficulties that you had imposed on yourself that were the main cause of this terrible offence. Any frustration was self- imposed and not caused by unusual behaviour from this 10 month old child. You lost your temper and he was on the receiving end.
18. There is a sentencing guideline which I am required by law to follow. It covers the offence of Manslaughter which may be committed in very many different ways. Here you have admitted unlawful act manslaughter which is when death is caused by a criminal act which a reasonable person would realise must subject some other person to at least the risk of *some* physical harm

19. I have to assess your culpability to arrive at the correct starting points for sentence set out in the guideline.
20. In my judgment you had high culpability. You shook a 10 month old child so violently as to cause devastating injury. The magnitude of force required to cause injury in shaken baby syndrome has never been measured for obvious reasons and I recognise that it is difficult to quantify with confidence in any case. Although excessive, and beyond rough handling, it may not necessarily be severe. However as a matter of commonsense Harlow was 10 months and not, as sadly the Courts are sometimes concerned with, a 10 weeks old baby, with the corresponding size difference and necessary degree of force to cause these injuries. His death was caused in the course of an assault which carried an obvious, high risk of death or really serious bodily harm. This is clear as an objective assessment, but I have no doubt that as an experienced child minder you well knew this at the time.
21. Given the injuries and the entirety of the medical evidence I am also sure that in the moment when you had lost your temper your intention was to cause harm just short of very serious harm. So it is clear to everyone if your intention in that moment had been to cause very serious harm then that would have amounted to murder and the sentence would be very different. Also that you may have immediately regretted what you did does not affect the fact that you had the intention.
22. There are two category B features as set out in the guideline and I have considered whether category A is appropriate, but having carefully considered matters I am satisfied that your offence should be taken as within the category B and the range of 8 to 16 years. The starting point is 12 years. However a starting point is just that and I have to consider where your offence should lie in the range and have regard to aggravating and mitigating factors
23. As for aggravating features the first is that you were in a position of trust. Harlow's parents trusted you, a registered childminder, with his health and safety whilst they worked ; something so many people have to do each day. Harlow was vulnerable given his age but it is necessary to avoid what would be double counting given that it was his vulnerability which gave rise to the need for care, which led in turn to you being in a position of trust. You were keen indeed to persuade parents that you could be trusted, and reassured them when they raised legitimate concerns about the standard of your childminding
24. The second is that you well knew you were not as able to care for the children in your charge that day as you should have been. You had health issues and you were caring for too many young children in breach of Ofsted rules. You chose to accept the children into your care so that you could make money, prioritising this over their welfare.
25. As for mitigating features I accept that the offence was not premeditated and you have no previous convictions. I also take into account the statements of some of the parents who children you looked after and the content of the references from friends and your family. It is clear that in the past you have looked after some children very well,

including ones with complex needs. Also that for the great majority of your adult life you have been a hard working, productive member of society and a loving and supportive mother and grandmother. However it is clear on the evidence that you had previously not been honest at times with Ofsted, the benefits agency or parents. What is set out in the references that is in stark contrast to some of your behaviour before and, more importantly your behaviour on, 1st March 2022.

26. It is difficult to reconcile the suggestion that you are remorseful with your continued lying and refusal to accept what you did until the morning of the trial when your lack of any sustainable defence must have been made clear to you by your experienced legal team. Up to that stage nothing was admitted and you must have appreciated the impact this prolonged uncertainty would have on Harlow's parents. I am not at all surprised that they were tormented each and every day by your refusal to be truthful about what happened to their son. Your basis of plea also does not show much self reproach, rather much of it seeks to excuse your behaviour
27. In my judgment, after balancing out the aggravating and mitigating features, which requires more than a mechanistic approach, there must be a significant increase from the starting point
28. You are then entitled to deduction on your sentence to reflect your guilty plea. You pleaded guilty after a jury panel was selected but before it was sworn. A deduction of 10% is appropriate given guidance in the relevant guideline.
29. I do not consider you to be dangerous having regard to the criteria contained in the Criminal Justice Act 2003. You do not pose a significant risk to members of the public (including young children) of serious harm occasioned by your commission of further violent offences,
30. You will serve two thirds of your sentence before you are eligible for release on licence. Your release will not bring your sentence to an end. If, after your release and before the end of the period covered by your sentence, you commit any further offence, or breach any condition of your licence, you may be ordered to return to custody to serve the balance of the original sentence outstanding at that time, as well as being sentenced for any further offence.
31. Credit must be given for time on remand. You will have spent 308 days in custody. If the calculation of the days served is proved to be incorrect it can be amended administratively.
32. The surcharge applies and it should be drawn up in the appropriate amount.
33. Count two will lie on the file
34. Two final matters. It is right that I recognise the hard work and professionalism of the police, CPS, experts and the legal team. This has been a very difficult and complex case in no small part due to the lack of any admission by you of any fault before the

morning of the trial. This meant that every angle and aspect has had to be considered to ensure that justice was done.

35. It is also right that I recognise the restraint and dignity displayed by Harlow's parents who have suffered so much and have had to hear some things which will always live with them. I can only hope that the conclusion of this case brings them some peace however limited.
36. Karen Foster stand up.
37. You are guilty of the manslaughter of a healthy 10 month old boy by shaking him so violently as to cause devastating brain injury.
38. You well knew that shaking such a young child carried an obvious and high risk of death or really serious harm and in the moment when you lost your temper you intended to cause him only just short of really serious harm.
39. I have no doubt that your significant health issues, (combined with your deliberate breach of the rules as to the number of children you could mind) meant that you were under significant self-imposed strain and very significantly contributed to your loss of temper and the fatal violent shaking. Had Harlow's parents known of either of these issues they would never have left him in your care and he would be alive today. They did not know and the fault for that is entirely yours not theirs. You chose to put financial gain before a young child's welfare, you breached trust and you reacted with violence to his normal behaviour, causing his death. You then lied and only admitted what you had done on the morning of the trial. I have not seen evidence of genuine remorse.
40. For the manslaughter of Harlow I sentence you to the shortest term which is commensurate with the seriousness of your offence which, given the credit for your guilty plea, is 12 years and 7 months
41. Take her down please.