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## **Child protection fact sheet**

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# **Managing allegations against people who work with children: Summary of procedures (England)**

July 2010

# Managing allegations against people who work with children: Summary of procedures (England)

## 1. Introduction

This fact sheet has been compiled by Fiona Becker (Senior Consultant, NSPCC Consultancy Services). It focuses on how to manage allegations of misconduct against people who work with children and young people in England, and is intended to assist voluntary, community and commercial organisations in developing or reviewing their child protection policy and procedures. It does not constitute legal advice.

### 1.1 Working together to safeguard children

*Children can be subjected to abuse by those who work with them in any and every setting. All allegations of abuse or maltreatment of children by a professional, staff member, foster carer or volunteer must therefore be taken seriously and treated in accordance with consistent procedures.*

*(Working Together to Safeguard Children, HM Government, 2010, para 6.32).*

All organisations that provide services for children, or provide staff or volunteers to work with or care for children, should operate a procedure for handling such allegations that is consistent with the guidance contained in *Working Together to Safeguard Children*<sup>1</sup>, and the local safeguarding children board (LSCB) child protection procedures.

### 1.2 Framework for managing allegations

*Working Together to Safeguard Children* identifies a new framework for managing allegations and concerns about people who work with children, which should be used in respect of **all** cases in which it is alleged that the person has:

- behaved in a way that has harmed, or may have harmed, a child;
- possibly committed a criminal offence against, or related to, a child; or
- behaved towards a child or children in a way that indicates s/he is unsuitable to work with children.

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<sup>1</sup> Available at:  
[www.dcsf.gov.uk/everychildmatters/safeguardingandsocialcare/safeguardingchildren/workingtogether/workingtogetheretosafeguardchildren/](http://www.dcsf.gov.uk/everychildmatters/safeguardingandsocialcare/safeguardingchildren/workingtogether/workingtogetheretosafeguardchildren/)

There can be up to three strands in the consideration of an allegation:

- a police investigation of a possible criminal offence
- enquiries and assessment by children's social care about whether a child is in need of protection or in need of services
- consideration by an employer of disciplinary action in respect of the individual.

## 2. Summary of the process for managing allegations

### 2.1 Allegation made to the employer

Employer's procedures should identify a senior manager within their organisation to whom all allegations or concerns should be reported. Staff and volunteers should be made aware of who this person is, and who the designated alternative is, to contact in the absence of this person. Where there is no alternative person, staff and volunteers will need to know that they can go straight to the **local authority designated officer** (LADO) to report their concerns.

If the allegation meets any of the criteria in paragraph 1.2, the employer should report it to the LADO within one working day. The LADO is responsible for:

- providing advice and liaison with Children's Services
- Liaising with the police
- monitoring the progress of cases
- ensuring that cases are dealt with as quickly as possible
- ensuring the process is consistent, fair and thorough.

The LADO will also advise the person contacting them on what, if anything, may be shared with the person who is the subject of an allegation. They should decide, in consultation with the police and/or any other relevant agency, what may be shared in situations that may possibly lead to a criminal investigation.

### 2.2 Initial evaluation

The LADO will discuss the matter with the employer and, where necessary, obtain further details of the allegation and the circumstances in which it was made.

If there is cause to suspect that a child is suffering, or is likely to suffer, significant harm, the LADO will immediately refer to children's social care services and ask for a strategy meeting to

be convened promptly. This discussion should include the LADO and a representative of the employer.

If there is no cause to suspect that 'significant harm' is an issue, but a criminal offence may have been committed, the LADO should immediately inform the police and convene a meeting to decide whether a police investigation is required. That discussion should involve the LADO, a representative of the employer and the police.

### 2.3 Action following initial evaluation

There are five possible outcomes of the initial evaluation:

- No further action required
- disciplinary action
- police investigation
- referral on to a list of persons considered unsuitable to work with children
- A combination of these.

#### 2.3.1 Disciplinary action

If the initial evaluation establishes that the allegation does **not** involve a possible criminal offence, it is dealt with by the employer. In such cases, if the nature of the allegation does not require formal disciplinary action, appropriate action should be taken within **3 working days**.

If a disciplinary hearing is required and no further investigation is necessary, the hearing should be held within **15 working days**.

Where further investigation is required to inform consideration of disciplinary action, the employer should discuss who will undertake that with the LADO. The investigating officer should aim to provide a report to the employer within **10 working days**.

On receipt of the report of the disciplinary investigation, the employer should decide whether a disciplinary hearing is needed within **2 working days**, and if a hearing is needed it should be held within **15 working days**.

If children's social care services have made enquiries to determine whether the child or children are in need of protection, the employer should take account of any relevant information obtained from these enquiries when considering disciplinary action.

**Note:** *Working Together To Safeguard Children* states that “the timescales given are not performance indicators but they provide useful targets to aim for that are achievable in many cases” (HM Government, 2010).

### 2.3.2 Case subject to police investigation

If a criminal investigation is required, the police will aim to complete their enquiries as quickly as possible. They should, from the outset, set target dates for reviewing the progress of the investigation and for consulting with the Crown Prosecution Service (CPS) about whether to proceed with the investigation, charge the individual with an offence, or to close the case.

Wherever possible that review should take place **no later than four weeks** after the initial evaluation and if the decision is to continue to investigate the allegation, dates for subsequent reviews should be set at that point

If the police and/or CPS decide either not to charge the individual or to administer a caution, or a court acquits the person, the police should without delay pass all information relevant to a disciplinary case to the employer.

If the person is convicted of an offence, the police should also inform the employer immediately so that appropriate action can be taken.

### 2.3.3 Referral to the Independent Safeguarding Authority

If the allegation is substantiated, and on conclusion of the case the employer dismisses the person or ceases to use the person’s services, or the person ceases to provide his/her services, the employer should consult the LADO about whether a referral to the Independent Safeguarding Authority is required. If a referral is appropriate, the report should be made within **one month**.

## 3 Additional considerations

### 3.1 Supporting those involved

There are two issues to consider: support for the child/ren, parents or carers involved, and support for the person who is the subject of the allegation.

### **3.1.1 Parents / carers**

Parents/carers of a child or children involved should be told about the allegation as soon as possible if they do not know about it already. They should be kept informed about the progress of a case, and told of the outcomes where there is not a criminal prosecution. That includes the outcome of any disciplinary process.

### **3.1.2 Person who is subject of the allegation**

The employer should also keep the person who is the subject of the allegation informed of the progress of the case, and arrange to provide appropriate support while the case is ongoing. If the person is suspended, the employer should also make arrangements to keep the individual informed about developments in the workplace.

## **3.2 Confidentiality**

Every effort should be made to maintain confidentiality and guard against publicity while an allegation is being investigated and considered. It can be very helpful to have a planned media response (eg, an agreed press release) in case of a breach in confidentiality.

## **3.3 Resignations and ‘compromise agreements’**

The fact that a person tenders his/her resignation, or ceases to provide their services, must not prevent an allegation being followed up in accordance with these procedures. It is important that every effort is made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children, including any in which the person concerned refuses to co-operate with the process.

‘Compromise agreements’ – whereby a person agrees to resign, the employer agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference – must not be used in these cases.

## **3.4 Record keeping**

It is important that employers keep a clear and comprehensive summary of:

- any allegations made
- details of how allegations were followed up and resolved
- any action taken
- decisions reached.

These details should be kept in a person's confidential personnel file and a copy should be given to the individual. Such information should be retained on file, including for people who leave the organisation, at least until the person reaches normal retirement age, or for 10 years if that is longer.

### **3.5 Learning Lessons**

If an allegation is substantiated, the managers or commissioners of the relevant service should think widely about the lessons of the case and how they should be acted on. This should include whether there are features of the organisation that may have contributed to, or failed to prevent, the abuse occurring. In some cases a serious case review may be appropriate – this is where the LSCB undertakes a review of a serious case to consider whether there are any lessons to be learnt and actions to be taken that should be shared more widely, so as to improve safeguarding practice.

### **3.6 Code of conduct/professional boundaries**

Wherever possible preventative measures should be in place so that situations leading to possible allegations are avoided altogether. All adults who come into contact with children and young people in their work have a duty of care<sup>2</sup> to safeguard and promote their welfare. It is important that staff and volunteers are made aware of their employers' expectations of them from the outset. This demonstrates that the organisation is taking its duty of care towards children and young people seriously and it makes clear to staff and volunteers what is appropriate behaviour, reducing the likelihood of misinterpretation and potential allegations.

The vast majority of adults who work with children act professionally and aim to provide a safe and supportive environment which secures the wellbeing and very best outcomes for children and young people in their care. However, it is recognised that in this area of work tensions and misunderstandings can occur. It is here that the behaviour of adults can give rise to allegations of abuse being made against them. Such allegations may be malicious or misplaced, or they may arise from differing perceptions of the same event. However, when they occur, they are inevitably distressing and difficult for all concerned.

Equally, it must be recognised that some allegations will be genuine and there are adults who will deliberately seek out, create or exploit opportunities to abuse children. It is therefore essential that all possible steps are taken to safeguard children and young people and to ensure that the adults

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<sup>2</sup> The duty that rests upon an individual to ensure that all reasonable steps are taken to ensure the safety of a child or young person involved in any activity, or interaction for which that individual is responsible. Any person in charge of, or working with children and young people in any capacity is considered, both legally and morally, to owe them a duty of care.

working with them are safe to do so. In recognition of this need the Department for Children, Schools and Families (DCSF) has issued *Safer Working Practice for Adults who Work with Children and Young People* (2009).<sup>3</sup> This guidance has been issued to clarify exactly what constitutes illegal behaviour, what might be considered as misconduct, and defines what behaviour is (in)appropriate.

There may be times when employees (propose to) make professional judgements or take actions in situations that are not covered by the guidance, or which directly contravene the guidance given by their employer. In these circumstances they are expected to always advise their senior colleagues, in advance if at all possible, of the justification for these (proposed) judgements or actions.

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<sup>3</sup> Available at [www.dcsf.gov.uk/everychildmatters/resources-and-practice/IG00311/](http://www.dcsf.gov.uk/everychildmatters/resources-and-practice/IG00311/)

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Our mission is to end cruelty to children.

The NSPCC is the UK's leading charity specialising in child protection and the prevention of cruelty to children. For over 100 years it has been protecting children from cruelty and is the only children's charity with statutory powers, enabling it to act to safeguard children at risk.

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