

Procedure in the event of an allegation being made against member of staff

Introduction

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, or volunteer must therefore be taken seriously and treated in accordance with consistent procedures. (*Working Together to Safeguard Children, 2010*).

When an allegation of abuse is made either by a child, colleague, parent or member of the public, the person receiving the allegation must take it seriously and deal with it by informing either the Preschool Manager (if the allegation is not against that person) or the Chair of the Management Committee. Failure to do so may result in disciplinary action.

The guidance on which this policy is based, can be found http://www.bedfordshirelscb.org.uk/publications/policies_protocols_and_procedures

What to do when an allegation is made

If an allegation is made against a paid or unpaid employee, the Preschool Manager must immediately be informed. The following action must be taken:

- Immediate contact must be made with the Local Authority Designated Officer (LADO) Children's Services on 0300 300 4833
- Ofsted should be notified immediately;
- The Chair of the Management Committee should also be informed that an allegation has been made;
- No discussions are to be held at this stage with the member of staff concerned;
- Suspension is a neutral act and therefore not automatic. Any decision to suspend must take into account the seriousness of the allegation and the initial weight of the presenting evidence.

The LADO and Ofsted can advise further on the action that the setting should now take with regard to the member of staff, specifically with regard to safeguarding children. The decision as to whether or not to suspend rests with the preschool and will be based on risk and safety as far as possible at the time the allegation is made.

If the allegation relates to the Preschool Manager, then next most senior member of staff must follow the procedure listed above.

Deciding to suspend

Although suspension is not automatic, the member of staff may be asked to refrain from some or all duties until further assessment has occurred to determine the nature and level of risk. This does not imply innocence or guilt.

The staff member may have questions as to why this has been requested. If asked, the senior manager will inform the staff member that a safeguarding concern has been brought to the attention of the management. This cannot be discussed any further but there will be a formal opportunity to respond at a later date.

The setting must not question the staff member or investigate the matter. Confidentiality should be maintained throughout this matter, in order that any subsequent investigation is not prejudiced.

Guidance for Setting staff receiving an allegation:

1. Do not promise total confidentiality to children since they must inform the Preschool Manager and/or the Chair of the Management Committee of the group (as above);
2. Make a written note of the allegation/concerns including a note of anyone else witnessing the incident. Witnesses should also make a record, these will be signed and dated;
3. Only establish what the child is saying and will not interview the child about the allegation;
4. If they have any reason to suspect that a child may have been abused by another member of staff, must immediately inform either the Preschool Manager or the Chair of the Management Committee (see above).

Where suspicions or allegations of abuse against a child attending the preschool and involving members of preschool staff are received by a person outside the group e.g. social worker, Police, parent, relative or family friend, then the Preschool Manager and/or Chair of Management Committee should be informed as soon as possible and immediately follow the above procedure. The person to whom the allegation has been made may already have contacted Ofsted and/or the LADO.

In the event of a third party hearing the allegation the setting:

1. must obtain details of the allegation in writing, signed and dated by the person who received the allegation (not the child who is the subject of the allegation);
2. record any information about times, dates, locations and names of potential witnesses;
3. establish whether Ofsted and the LADO have been informed about the allegation;
4. follow the main procedure outlined above.

Outcomes from an investigation

There may be four possible outcomes to an allegation:

- **Malicious** This implies a deliberate act to deceive. A malicious allegation may be made by a pupil following an altercation with a teacher or a parent who is in dispute with a school. For an allegation to be classified as malicious, it will be necessary to have evidence, which proves this intention.
- **Unfounded** This indicates that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively they may not have been aware of all the circumstances. For an allegation to be classified as unfounded, it will be necessary to have evidence

to disprove the allegation.

- **Unsubstantiated** this is not the same as a false allegation. It simply means that there is insufficient identifiable evidence to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.
- **Substantiated** This is where there is sufficient evidence or information to support the allegation

Following completion of an investigation by Ofsted and the LADO there will be five possible courses of action:

- **Criminal** Ofsted and LADO will decide if there sufficient evidence to carry forward a prosecution of the member and if so will involve the police directly.
- **Disciplinary** Ofsted and the LADO may determine that there is not sufficient evidence to press a criminal charge, but there may nevertheless be issues which require that disciplinary action is taken via the preschool's disciplinary guidelines.
- **Training** The investigations may indicate that the allegation was unfounded but the case may well have shown that there are issues of training and performance amongst staff which need to be dealt with by additional staff training.
- **Safeguarding Children** There may be other outstanding Safeguarding Children issues which do not involve the member of staff concerned but which Ofsted and LADO deem need to be dealt with via Safeguarding Children procedures.
- **No further action**

Where the allegation has been found to be without basis Ofsted will write to the setting summarising the outcome of the investigation.

DBS

Employers must refer someone to the DBS if they:

- Sacked them because they harmed a child or adult
- Sacked them because they might have harmed a child or adult otherwise
- Were planning to sack them for either of these reasons, but the person resigned first

Relevant information should be referred to the DBS as soon as it becomes available. The referral should only be made once you have gathered sufficient evidence and after consultation with the LADO.

It is important to ensure that you are satisfied any referral made where the legal duty has not

been met complies with relevant legal requirements e.g. The Data Protection Act and employment laws.

Records

Where an allegation has been found to be unfounded a summary of the allegation and subsequent investigation should be kept on the preschool's confidential Safeguarding Children file. Where disciplinary action has been taken, however, documents relating to the

investigation should be retained, together with a written record of the investigation, on the member of staff's personal and confidential file.

Ofsted – 0300 123 1231

LADO – 0300 300 4833

DBS referrals helpline - 01325 953795 www.dbsdispatch@dbs.gsi.gov.uk