

## Allegations Against Staff Procedure

### Safeguarding and welfare requirement 2017

*Child protection: 3.4. Providers must be alert to any issues of concern in the child's life at home or elsewhere. Providers must have and implement a policy, and procedures, to safeguard children. These should be in line with the guidance and procedures of the relevant Local Safeguarding Children Partnership (LSCP). The safeguarding policy and procedures must include an explanation of the action to be taken when there are safeguarding concerns about a child and in the event of an allegation being made against a member of staff, and cover the use of mobile phones and cameras in the setting.*

### Policy statement

Unfortunately, child abuse does occasionally take place in childcare settings, so we have introduced this separate policy to remind staff of the measures that can be taken to reduce the risk of any allegations being made against them or another member of staff. It also contains the procedure, which will be undertaken if an allegation is made against a member of staff. This complies with both the Early Years Foundation Stage (2017) and Local Safeguarding Children Partnership Procedures.

- Always Remember - The Welfare of The Child Is Paramount
- Please do ensure that urgent medical treatment is sought if required, and that the child is supported.
- All staff need to be aware that it is a disciplinary offence not to report concerns about the conduct of a colleague that could place a child at risk.
- When in doubt – consult!

This document has been developed in line with Local Safeguarding Children Partnership guidance, and national guidance which includes:

- Working Together to Safeguard Children (2019)
- Information Sharing: Guidance for Practitioners providing Safeguarding Services (DfE 2018)
- Keeping Children Safe in Education (2019)

## **What happens if an allegation of abuse is made against a member of staff in the Setting?**

- An allegation or concern raised about a member of staff may arise from a number of sources, for example, a report from a child, a concern raised by another adult in the organisation, or a complaint by a parent. It may also arise in the context of the member of staff and their life outside work or at home.
- The person to whom an allegation or concern is first reported should treat the matter seriously and keep an open mind. They should not:
  - Investigate or ask leading questions.
  - Make assumptions or offer alternative explanations.
  - Promise confidentiality.
- They should:
  - Immediately report the matter to the designated safeguarding lead, or the deputy designated safeguarding lead in their absence or where the designated safeguarding lead is the subject of the allegation report to the deputy designated safeguarding lead or ICP Strategic Safeguarding Lead.
  - Some, very serious allegations, should be immediately reported to the police – this will also enable prompt action to be taken to gather evidence from mobile phones etc.
- Whilst we do not investigate the matter unless advised by the LADO, we will continue to gather factual information in regard to the incident and ensure any evidence is preserved. This fact-finding should be a neutral process and should not amount to an investigation of the incident. A summary of this information must be emailed to [notifications@ICPNurseries.com](mailto:notifications@ICPNurseries.com) and shared with the ICP Strategic Safeguarding Lead prior to calling the LADO. This information may include:
  - Obtain written details of the concern / allegation, signed and dated by the person receiving it (not the child / adult making the allegation or the alleged person)
  - Approve and date the written details.
  - Record any information about times, dates and location of incident/s and names of any potential witnesses.
  - Record discussions about the child and/or member of staff, any decisions made, and the reasons for those decisions.
  - Deciding if it is an allegation of harm or a concern
  - The designated safeguarding lead should review the information available and consideration should be given as to whether the case meets the threshold of harm/risk of harm
- The LADO should be alerted to all cases in which it is alleged that a person who works with children has:

- Behaved in a way that has harmed a child 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 they may pose a risk of harm to children.

This is referred to as the threshold.

- The LADO will assess whether the allegation reaches the threshold for referral to Police/LADO and advise accordingly regarding further action to be taken in respect of the child and the member of staff.
- Ofsted must be informed when an allegation of harm (as opposed to a concern being raised e.g. a practice or training need) is made against a member of our staff, even if the LADO decides no further action is required. This must be done on the same day as the referral to LADO, or soon as is reasonably practicable, but at the latest within 14 days of the allegations being made. A registered provider who, without reasonable excuse, fails to comply with this requirement, commits an offence.
- Where there is any delay in a notification being made, the notifier must provide an explanation to Ofsted as to why there has been a delay. Ofsted may do their own investigation to ensure that registration requirements are being met.
- The Designated safeguarding lead will start a chronology (Appendix 07) making a note of any actions the LADO or Ofsted advise them to take and the date or times at which they have been implemented.
- The Designated Safeguarding Lead will not discuss the allegation with the member of staff concerned, unless advised to do so by the LADO.
- If LADO and/or the police decide to carry out an investigation, it may be possible that we will be advised to suspend the member of staff, whilst enquiries are carried out. ICP Nurseries could also invoke their disciplinary procedure.
- A risk assessment for suspension will be carried out to help ascertain the level of risk in relation to whether a child or children are at risk of significant harm; the allegation warrants investigation by the police; the allegation is so serious that dismissal / gross misconduct is possible
- We will not carry out an investigation ourselves unless LADO and the Police decide it is not necessary for them to do so. If the LADO advises that an internal investigation needs to be carried out, the DSL must inform the ICP Strategic Safeguarding Lead before commencing inquiries.
- We understand that Ofsted may wish to undertake further investigations in some circumstances.

## **Deciding if it is an allegation of harm or a concern**

The designated safeguarding lead should review the information available and consideration should be given as to whether the case meets the threshold of harm/risk of harm.

- If it is decided it meets the threshold of harm/risk of harm and therefore is an allegation they should follow the procedures below and notify the LADO as soon as reasonably possible, and within one working day. If appropriate, the police should also be notified within one working day – or immediately if necessary.
- If the designated safeguarding lead is unclear whether the incident meets the threshold of harm/risk of harm, they must seek advice from the ICP Strategic Safeguarding Lead.
- If it is decided that the incident does not meet the threshold of harm/risk of harm and is a concern only, then they should take steps to ensure any conduct or behaviour issues are addressed with the member of staff through normal employment practices.

## **Record keeping**

Details of allegations that are found to have been malicious should be removed from personnel records. However, for all other allegations it is important that a clear and comprehensive summary of the allegation, (how it was followed up and resolved, decisions reached, and action taken) is kept on the accused person's confidential personnel file and a copy given to the individual. It should be kept until the person reaches normal retirement age or for 10 years if longer.

The purpose of the record is to:

- Enable accurate information to be given in response to future reference requests
- Provide clarification where a DBS disclosure reveals an allegation that did not result in a prosecution or a conviction
- Help prevent unnecessary re-investigation if the allegation should resurface

## **Cases which cross borough boundaries**

Cases will often be relevant to more than one local authority. For example, an allegation could be made against a member of agency staff who works across multiple boroughs and whose agency is based in a further borough. Decisions about which LADO should take the lead are complex and should consider the following:

- Which agency holds the greatest risk? For example, if an agency worker has only worked one day in the school where the allegation has taken place and won't be returning, it might be that the employment agency holds the most risk.
- Where is organisational learning required? For example, an agency worker may have only worked in a school for a day, but if the school did not follow good practice with

the worker and this contributed to the incident, the greatest learning might be with the school.

## **Support**

ICP nurseries, together with Children's Social Care (CSC) and the police (if they are involved), should consider providing support for children who may have suffered significant harm or who are involved in a case where criminal prosecution is possible.

### **Parents/carers of the child/ren involved should be:**

- Informed of the allegation as soon as possible provided this does not impede the enquiry, disciplinary or investigative processes (they may need to be told straight away e.g. if child injured & requires medical treatment)
- Kept informed about the progress of the case
- Told the outcome where there is no criminal prosecution (including the outcome of any disciplinary process but excluding the deliberations/information used in a hearing)

### **Children and their parents/carers should:**

- Be helped to understand the processes involved
- Told the result of any enquiry or disciplinary process
- Where necessary, be helped to understand the outcomes reached

### **The accused person should be:**

- Treated fairly & honestly & helped to understand the concerns expressed & processes involved
- Kept informed of the progress of the case & the outcome of any investigation and the implications for disciplinary or related processes.
- Provided with appropriate support during the case (via occupational health or employee welfare arrangements where those exist). Be kept informed about developments in the workplace if suspended
- Advised at the outset to contact his/her union or professional association

If a suspended person is to return to work, the employer should consider appropriate help/support e.g. phased return and/or provision of a mentor. Consideration should also be given to how best to manage the person's contact with the child/ren who made the allegation, if still in the workplace.

## **Outcome of investigations**

If the LADO has requested the nursery complete its own investigation, then the following definitions of allegation outcomes should be used once the investigation is completed:

- False: there is sufficient evidence to disprove the allegation
- Malicious: there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive
- Substantiated: there is sufficient evidence to prove the allegation
- Unsubstantiated: this is not the same as a false allegation It means there is insufficient evidence to prove or disprove the allegation; therefore, the term does not imply guilt or innocence

### **Referral to Disclosure and Barring Service**

The EYFS requires us to meet our responsibilities under the Safeguarding Vulnerable Groups Act 2006, which includes a duty to make a referral to the Disclosure and Barring Service where a member of staff is dismissed (or would have been, had the person not left the setting first) because they have harmed a child or put a child at risk of harm.

### **Contact telephone numbers:**

- Designated Safeguarding Lead (DSL):
- Designated Safeguarding Lead - Deputy 1 (DSL):
- Designated Safeguarding Lead – Deputy 2(DSL):
- Local authority children's social care team **[insert number]**
- Local authority Designated Officer (LADO) **[insert number]**
- Local Authority referral team **[insert number]**
- Local Authority Out of Hours Team **[insert number]**
- ICP Nurseries Strategic Safeguarding Lead: Gill Medhurst **07951 763623**
- ICP Nurseries Deputy Strategic Safeguarding Lead: Tracey Storey **07811 155180**
- NSPCC **0808 800 5000**
- Ofsted **0300 123 1231**
- Emergency police **999**
- Non-emergency police **101**