

035 Dealing with allegations against staff and volunteers procedure

Statement of intent

The Staff and Voluntary Management Committee of Grindleford and Eyam Playgroup (GEP) intend to create within the setting an environment in which children are safe from abuse and in which any suspicion of abuse is promptly and appropriately responded to. We also intend to ensure that as far as practicable staff are protected from unfounded allegations of abuse.

The Designated Safeguarding Lead (DSL) is responsible for dealing with allegations against a member of staff or volunteer. Concerns relating to the DSL or members of the management committee should be discussed with the Chair of the voluntary management committee (Employer) or the Local Authority Designated Officer (LADO). Refer to Appendix 1 Derbyshire LADO Process flow chart.

Raising a concern

This procedure should be applied when there is an allegation or concerns that any person who works or volunteers with the playgroup 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
- behaved towards a child or children in a way that indicates they may pose a risk of harm to children

Any concerns or allegations about the behaviour of the member of staff or volunteer should be raised confidentially with the DSL. The DSL must inform the Employer and they must complete the LADO Referral Form (http://derbyshirescbs.proceduresonline.com/docs_library.html)

and email securely to: GCSX.CAYAProfessionalallegations@derbyshire.gcsx.gov.uk

The first priority must be to ensure the immediate safety of the child and other children affected, or who may be in contact with the individual (including their own children). Some allegations will be so serious they require immediate intervention by Police and/or Social Care. In these situations, the Employer will need to involve the Police (for example if the person is deemed to be an immediate risk to children or there is evidence of a criminal offence) and/or Children's Social Care where there are immediate Child Protection concerns e.g. where a child has been injured. Where there is no such evidence, the Employer should, in the first instance, discuss the allegations with the LADO in order to help determine whether Police and/or Social Care involvement is necessary - this discussion should take place within 1 working day. The purpose of an initial discussion is for the Employer and LADO to consider the nature, content and context of the allegation and agree a course of action. The LADO may ask the Employer to provide or obtain relevant information, such as previous history, whether the child or the family have made similar allegations and the individual's current contact with any children.

The Employer should not ask the employee any questions that will interfere with any criminal investigation until it has been agreed by LADO and police.

Allegations reported to the Police and/or Children's Social Care should also be immediately reported to the LADO. The LADO will agree with the setting any further actions that are required and how and when the person the allegation has been made against will be informed of the concern, and this is dependent on the nature of the allegation.

If there is cause to suspect a child is suffering or likely to suffer significant harm, or a criminal offence might have been committed, a Strategy Discussion will be held, involving police, LADO, the Employer, Children's Social Care and other agencies as appropriate. The aim of the Strategy Discussion will be to share relevant information and determine whether an investigation needs to be conducted by:

- Social care regarding child protection concerns
- Police regarding any possible criminal offences
- Or via the Employer disciplinary/ capability procedures

During the investigation

If the individual resigns, or ceases their service, this should not prevent an allegation being followed up in accordance with this procedure.

Confidentiality

It is extremely important that when an allegation is made, the Employer makes every effort to maintain confidentiality and guard against unwanted publicity while the allegation is being investigated or considered.

The Employer can take advice from the LADO, Police and Children's Social Care to agree the following:

- Who needs to know and what information can be shared;
- How to manage speculation, leaks and gossip;
- What, if any information can be reasonably given to the wider community to reduce speculation; and
- How to manage press interest if and when it should arise.

Supporting those involved

Employers have a duty of care to their employees. They should act to manage and minimise the stress inherent in the allegations process. Support for the individual is key to fulfilling this duty. Individuals should be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action, unless there is an objection by Children's Social Care or the Police.

We will appoint a Contact Officer (not the investigating officer), to keep the person who is the subject of the allegation informed of the progress of the case and consider what other support is appropriate for the individual.

The individual should be advised to contact a source of professional support e.g. ACAS helpline adviser on 0300 123 1100 (8am-8pm Monday to Friday and 9am-1pm Saturday).

Social contact with colleagues should not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

Parents or carers should also be kept informed about the progress of the case and told the outcome i.e. whether substantiated or not. Where there is a criminal investigation, the Police have a responsibility to keep a victim informed, and any prosecution is in the public domain, however they cannot be told the outcome of any disciplinary or other internal process.

The impact on any child concerned must be considered and all agencies involved should liaise to ensure that the child's needs are addressed, providing appropriate support.

Suspension

In some cases the Employer will need to consider suspending the individual until the case is resolved.

Suspension should not be an automatic response when an allegation is reported; all options to avoid suspension should be considered prior to taking that step. Suspension should be considered only in a case where:

- There is a cause to suspect a child/ren is at risk of harm; or
- The allegation is so serious that it might be grounds for dismissal.

The Employer must consider carefully whether the circumstances warrant suspension or whether the result that would be achieved by suspension could be obtained by alternative arrangements. They should seek advice from the LADO and LAW-CALL (24 hour legal helpline service on 01455 255 205); the decision to suspend is a matter for the employer. Depending on the nature of the allegation the Employer should consider the potential permanent professional reputational damage to employees that can result from suspension where an allegation is later found to be unsubstantiated or maliciously intended.

If immediate suspension is considered necessary, the rationale and justification for such a course of action should be agreed and recorded by both the Employer and LADO. This should include what alternatives to suspension have been considered and why they were rejected. The individual should be given written confirmation, by the Employer usually within one working day, giving as much detail as appropriate for the reasons for the suspension. The Employer should also inform the person who their named contact is within the organisation, their contact details and the support available to them. The Contact Officer should ensure they are kept informed of both progress of the case and current work issues.

Children's Social Care or the Police cannot require the Employer to suspend the member of staff or a volunteer, although they should give appropriate weight to their advice. The power to suspend is vested in the Employer. Where a Strategy Discussion or initial evaluation concludes that there should be enquiries by Children's Social Care and/or an investigation by the Police, the LADO should canvass Police and Children's Social Care for views about whether the individual needs to be suspended from contact with children. The LADO should then inform the Employer of these views.

If a suspended person is to return to work, the Employer should consider what help and support might be appropriate, for example a phased return to work and/or provision of a mentor, and also

how best to manage the member of staff's contact with the child concerned, if still in the work place.

On completion of investigation

The following definitions should be used when determining the outcome of allegation investigations:

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

The conclusion of any investigation should be clearly communicated in writing by the LADO to the Employer, who is then responsible for communicating this to the individual along with any actions agreed within the investigation.

If an individual disputes the outcome of an investigation, their right of challenge will ordinarily be with the employer through disciplinary or grievance procedures. Employers, by agreeing actions with the LADO or in a Strategy Meeting, have accepted responsibility for these decisions and must be able to justify them to an employee or in any employment process.

Individuals may apply for access to their record under subject access procedure; such applications will be considered by the LADO and relevant documents, appropriately redacted, will be shared.

Action following a criminal investigation or prosecution

The Police or CPS should inform the Employer and LADO immediately when a criminal investigation and any subsequent trial is complete, or if it decided to close the investigation without charge, or not to continue to prosecute the case after the person has been charged. In these circumstances the LADO and the Employer should discuss whether any further action, including disciplinary action, is appropriate and if so, how to proceed. The information from Children's Social Care and the Police should inform the decision.

Disciplinary process

The LADO and Employer should discuss whether disciplinary or other internal action is appropriate in all cases independently of any decision by the Police and CPS in relation to prosecution.

However, the decision regarding any disciplinary action is the sole responsibility of the employer; they will be separately accountable for any such decision, which is subject to the usual criteria and right of appeal as usual under employment law.

The discussion should consider any potential misconduct or gross misconduct on the part of the member of staff and take into account any relevant information from the Police and/or Children's Social Care, the result of any investigation or trial and the different standard of proof in disciplinary and criminal proceedings. Employers should also consider lesser action, such as increased supervision, mentoring, training.

If the allegation is substantiated and the person is dismissed or the Employer ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the Employer must refer the case to the Disclosure and Barring Service for consideration of inclusion on the barred lists.

Further information can be found at <https://www.gov.uk/government/publications/dbs-referrals-form-and-guidance> or contact the DBS barring helpline on 01325 953795.

Referral should be made as soon as possible after the resignation or removal of the member of staff involved and within one month of ceasing to use the person's services. Substantiated allegations are also likely to be Professional misconduct cases and should be referred to Ofsted

The Employer should provide written confirmation to the LADO of when the referral was reported to the Disclosure and Barring Service and Ofsted. In addition, the LADO should also be informed of the outcomes of any disciplinary hearings and appeals.

Where it is decided on the conclusion of a case that the individual can be considered for return to work with children, the Employer must consult with the LADO about any required safeguarding measures.

Malicious, false or unsubstantiated allegations

If the investigation leads to a decision that no further action is to be taken in regard to the individual facing the allegation or concern; this decision and a justification for it should be recorded by the Employer and the LADO, and agreement reached on what information should be put in writing to the individual concerned and by whom. The Employer should then consider with the LADO what action should follow both in respect of the individual and those who made the initial allegation. The Employer may implement an action plan detailing relevant staff support and training particularly in respect of child development, behaviour management and child protection/safeguarding.

If an allegation is determined to be malicious, false or unsubstantiated, the Employer and LADO should consider if the child concerned is in need of any services or if they may have been abused by someone else and refer as appropriate.

References

We would seek guidance from LAW-CALL 24 hour legal helpline service on 01455 255 205 in regard to including allegations in future references.

Cases in which an allegation was proven to be false, unsubstantiated or malicious should not be included in employer references. A history of repeated concerns or allegations which have all been found to be false, unsubstantiated or malicious, should also not be included in any reference.

Record keeping

The following details will be recorded immediately using Appendix 2 Dealing with allegations reporting form:

Name of child

Name of individual involved

When and where the alleged incident took place (either inside or outside the workplace)

The names of any witnesses

Details of the incident – including what was done and said in the child's or adult's own words

What steps if any were taken

Details of any injuries to any of the parties involved

Details of parent/carer and any siblings

Countersign and date the record

A copy of the LADO referral form should be kept with this form.

A running record must be kept and attached to this form, logging all actions, conversations, telephone calls, correspondence that are made as a result of the concern. The Chronology of significant events form (034 GEP Safeguarding Appendix 4) could be used for this purpose. The entries must be dated and signed by the person carrying out that action. If an entry is made on behalf of someone else this must be made clear on the log. Any attempts at making contact with third parties must also be recorded as must any details of messages left.

Details of allegations that are found to have been malicious should be removed from personnel records; these are a very small minority of allegations made. For all other allegations it is important that a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, is kept on the confidential personnel file of the individual, and a copy provided to the person concerned. The record should be retained at least until the individual has reached retirement age or for a period of 10 years from the date of the allegation if that is longer.

Information sharing

First point of contact is the DSL.

The DSL will inform the Employer and the LADO.

The LADO will consult with Children's Social Care and the Police as appropriate and inform the Employer of any intention to do so.

The Employer should seek advice from LADO regarding the point at which information should be shared with the individual.

Parents or carers of a child involved should be told about the allegation as soon as possible if they do not already know of it.

Ofsted must be informed of the incident (0300 1231231) within 14 days.

Our insurance company will be informed of the situation.

Protecting staff/volunteers from unfounded allegations

In order to protect staff/volunteers from unfounded allegations of abuse we will ensure that:

- When recruiting staff we will ensure that any gaps in Employment History are questioned and adequately accounted for and that References are taken up for all staff before positions are confirmed.
- Only staff who have been DBS checked will be allowed to take children to the toilet, or have sole care of the children. Staff/adults awaiting their DBS clearance will be supervised around the children at all times (including visitors).
- New staff members undergo an induction process where the Supervisor/Employer will discuss aspects of Child Protection/Safeguarding including how to protect themselves from unfounded allegations.

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- New staff members will receive copies of the setting policies and procedures prioritising Child Protection/Safeguarding and Achieving Positive Behaviour policies.
- Staff appraisal/supervisory meetings give staff opportunities to discuss concerns about behaviour, procedures or the quality of care provided. Staff are aware of our Whistleblowing procedure.
- Where staff are left in sole supervision with a small group of children – e.g. during story, then such activities are held in rooms/areas with visual access through windows or doors, enabling other staff members to monitor and support supervision by being able to see into the rooms/areas.
- During Outdoor play we will try to ensure that there will be 2 members of staff in attendance. During free flow play the number of staff will be set in accordance with child ratios.
- During Forest School sessions staff are deployed around the site to ensure the children are safe. The session leader will monitor staff and ensure they remain within sight of another member of the team. Staff are mindful of safeguarding when setting up the toilet area to ensure that it can be monitored.
- All staff are encouraged and supported to attend appropriate training in Child Development, Child Protection/Safeguarding and Behaviour Management.

This policy should be read in conjunction with:

034 GEP Child protection policy and safeguarding procedures

036 GEP Whistle blowing procedure

Derbyshire Safeguarding procedures manual <http://derbyshirescbs.proceduresonline.com/>

2.2 Allegations Against Staff, Carers and Volunteers

This section expands on the information in this document and should be referenced during the handling of any allegation.

This procedure was adopted at a meeting of Grindleford and Eyam Playgroup.

Held on:

Date to be reviewed:

Signed on behalf of the committee:

Name of signatory:

Role of signatory:

All staff, volunteers and committee members will sign to indicate they have read, understood and agreed with the above policy.