

# **Managing Allegations of Abuse against Staff Policy**

## **Policy Statement**

It is essential that any allegation of abuse made against a member of staff, students on placement, volunteers or bank staff in our setting is dealt with fairly, quickly, and consistently, in a way that provides effective protection for the child and at the same time supports the person who is the subject of the allegation.

The procedures outlined in this policy will be followed alongside the Nursery's complaints procedure and child protection policy.

All staff and volunteers should understand what to do if they receive an allegation against another member of staff or they themselves have concerns about the behaviour of another member of staff. It is our policy that all allegations will be reported straight away, to the manager, or to the Chair of Trustees in cases where the Manager is absent or is the subject of the allegation or concern.

This policy follows the Government guidance in chapter Keeping Children Safe in Education Statutory Guidance for Schools and Colleges, April 2014. Sevenoaks Day Nursery also adopts the Government guidance - "Working Together to Safeguard Children 2013".

## **Procedures**

1. Application
- 2.1. This policy will be adopted in respect of allegations that might indicate that a person is unsuitable to continue to work with children in their present position, or in any capacity. The Nursery's complaints and child protection procedures will be followed alongside this policy.
- 2.2. This policy will be used in respect of all cases in which it is alleged that a member of staff (including a volunteer, student) has:
  - behaved in a way that has harmed a child, or may have harmed a child (see Child Protection Policy for definition of harm);
  - 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. This will include cases of verbal abuse.
- 2.3. There may be up to 3 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 the Nursery of disciplinary action in respect of the individual.
- 2.4. If an allegation or concern arises about a member of staff, outside of his/her work with children, and this may present a risk to child(ren) for whom the member of staff is responsible, the general principles outlined in these procedures will still apply.

## 2. Initial Action on Identifying or Receiving an Allegation or Concern

- 8.2 An allegation against a member of staff may arise from a number of sources e.g. a report from a child, a concern raised by another adult in the organisation, or a complaint by a parent or child's legal guardian.
- 8.3 The person to whom an allegation or concern is first reported should treat the matter seriously and keep an open mind.
- 8.4 He/she should not:
- Investigate or ask leading questions if seeking clarification;
  - Make assumptions or offer alternative explanations;
  - Promise confidentiality, but give assurance that the information will only be shared on a 'need to know' basis.
- 8.5 He/she should:
- Make a written record of the information (where possible in the child/adult's own words), including the time, date and place of incident(s), persons present and what was said;
  - Sign and date the written record;
  - Immediately report the matter to the Nursery's designated Child Protection Officer (CPO), or the Nursery Manager in his/her absence or where the CPO is the subject of the allegation.
  - See Appendix 2 for guidance on the type of information that should be included in this written record.

## 3. Initial Considerations

- 3.1 The Local Authority Designated Officer (LADO), must be informed, by the CPO or the Manager, of all allegations of abuse against staff on the same day, even where the police are contacted directly.
- 3.2 The CPO must also inform Ofsted, the Nursery's Chair of Trustees and the Chair of the Management Committee as soon as possible, preferably the same day.
- 3.3 The CPO will inform the accused person about the allegation as soon as possible after consulting the Chair of Trustees and the LADO. However, where a strategy discussion is needed, or where police or children's social care need to be involved, the CPO will not do that until those agencies have been consulted, and have agreed what information can be disclosed to the person. If the person is a member of a union or professional association s/he will be advised to contact that organisation at the outset.
- 3.4 If the allegation is not demonstrably false or unfounded, and there is cause to suspect a child is suffering or is likely to suffer significant harm, a strategy discussion will be convened by the CPO with the LADO and other appropriate agencies, such as the police and social services.

- 3.5 In cases where a formal strategy discussion is not considered appropriate because the threshold of "significant harm" is not reached, but a police investigation might be needed, the CPO will consult with the LADO, police and any other agencies involved with the child to evaluate the allegation and decide how it should be dealt with.  
(NB. The police will be consulted about any case in which a criminal offence may have been committed.)
- 3.6 If the allegation is about physical contact, the strategy discussion or initial evaluation with the police will take account of the fact that Nursery staff are entitled to use reasonable force to control or restrain children in certain circumstances, including dealing with disruptive behaviour, under s.93 of the Education and Inspections Act 2006.
- 3.7 The LADO and the CPO may conclude that the complaint or allegation is such that it is clear that an investigation by police and/or enquiries by social care is not necessary. In these circumstances the options open to the Nursery depend on the nature and circumstances of the allegation and the evidence and information available, and will range from taking no further action to summary dismissal or a decision not to use the person's services in future.

#### 4. Supporting Those Involved

- 4.1 Parents or legal guardians of a child or children involved will be told about the allegation as soon as possible if they do not already know of it. This will be done in consultation with the Local Authority Designated Officer (LADO) following point 3.1 above.
- 4.2 The parents or legal guardians will also be kept informed about the progress of the case, and told the outcome where there is not a criminal prosecution. That includes the outcome of any disciplinary process. While the deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, cannot normally be disclosed, the parents or legal guardians of the child will be told the outcome.
- 4.3 In cases where a child may have suffered significant harm, or there may be a criminal prosecution, children's social care, or the police as appropriate, will be consulted by the Chair of Trustees to consider what support the child or children involved may need.
- 4.4 The member of staff must:
- Be treated fairly and honestly and helped to understand the concerns expressed and processes involved;
  - Be advised to contact his/her Trade's Union or Professional Association if they belong to one;
  - Be kept informed of the progress and outcome of any investigation and the implications for any disciplinary or related process;
  - If suspended, be kept up to date about events in the workplace.

#### 5. Responsibility of staff to report concerns

- 5.1 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.

- 5.2 Any member of staff who believes that any allegations that have been reported are not being investigated properly has the responsibility to report it to a higher level in the Nursery (the Management Committee or Trustees) or Local Authority Designated Officer.
6. Confidentiality
- 6.1 Every effort will be made to maintain confidentiality and guard against publicity while an allegation is being investigated/considered. Apart from keeping the child, parents and accused person up to date with progress of the case, information should be restricted to those who have a need to know in order to protect children, facilitate enquiries, manage related disciplinary or suitability processes.
7. Timescales
- 7.1 It is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation. Every effort will be made to manage cases to avoid any unnecessary delay.
- 7.2 If the case does not lead to referral for Crown Prosecution enquiries after consultation with the LADO, the Nursery should take appropriate action within 3 working days. If a disciplinary hearing is required this should be convened within 15 working days.
8. Suspension
- 8.1 Suspension will be considered in any case where there is cause to suspect a child is at risk of significant harm, or the allegation warrants investigation by the police, or is so serious that it might be grounds for dismissal. However, a person will not be suspended automatically, or without careful thought.
- 8.2 The power to suspend is vested in the Trustees. However, they will speak to the LADO who may canvass police/social care views about whether the accused member of staff needs to be suspended from contact with children, to inform the Nursery's consideration of suspension.
- 8.3 If suspension is deemed appropriate, the reasons and justification will be recorded and the individual notified of the reasons.
9. Disciplinary Process
- 9.1 Throughout this process the Nursery must bear in mind and abide by its own staff disciplinary procedures.
- 9.2 The LADO and the CPO must discuss whether disciplinary action is appropriate in all cases where:
- It is clear at the outset or decided by a Strategy Discussion that a Police investigation or Children's Services enquiry is not necessary; or
  - The Nursery or LADO is informed by the Police or the Crown Prosecution Service that a criminal investigation and any subsequent trial is complete, or that an investigation is to be closed without charge, or a prosecution discontinued.

- 9.3 The discussion should consider any potential misconduct or gross misconduct on the part of the member of staff, and take into account:
- Information provided by the Police and/or Children's Services;
  - The result of any investigation or trial;
  - The different standard of proof in disciplinary and criminal proceedings.
- 9.4 In the case of supply, contract and volunteer workers, normal disciplinary procedures may not apply. In these circumstances, the LADO and Nursery should act jointly with the providing agency, if any, in deciding whether to continue to use the person's services, or provide future work with children, and if not, whether to refer to the Disclosure and Barring Service.
- 9.5 If further investigation is needed to decide upon disciplinary action, the Nursery and the LADO should discuss whether the Nursery has appropriate resources or whether the Nursery should commission an independent investigation because of the nature and/or complexity of the case and in order to ensure objectivity. The investigation should not be conducted by a relative or friend of the member of staff.
- 9.6 The aim of an investigation is to obtain, as far as possible, a fair, balanced and accurate record in order to consider the appropriateness of disciplinary action and/or the individual's suitability to work with children. Its purpose is not to prove or disprove the allegation.
- 9.7 If, at any stage, new information emerges that requires a child protection referral, the investigation should be held in abeyance and only resumed if agreed with Children's Services and Police. Consideration should again be given as to whether suspension is appropriate in light of the new information.
10. Resignations and "Compromise Agreements"
- 10.1 The fact that a person tenders his or her resignation, or ceases to provide their services, will not prevent an allegation being followed up in accordance with these procedures. Every effort will be made to reach a conclusion in all cases of allegations bearing in mind the safety or welfare of children including any in which the person concerned refuses to cooperate with the process.
- 10.2 Wherever possible the person will be given a full opportunity to answer the allegation and make representations about it. The process of investigating the allegation and reaching a judgement about whether it can be regarded as substantiated will continue even if the person does not cooperate.
- 10.3 Similarly, so called "compromise agreements" by which a person agrees to resign, the Nursery agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, will not be used in cases of alleged child abuse. In any event, such an agreement will not prevent a thorough police investigation where that is appropriate.
- 10.4 Furthermore, it will not override the statutory duty to make a referral to the Independent Safeguarding Authority (ISA) for consideration of placing the person's name on the Children's Barred List where circumstances require that.

## 11. Record Keeping

- 11.1 A clear and comprehensive summary of any allegations made, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, will be kept on a person's confidential personnel file, and a copy provided to the person concerned. The purpose of the record is to enable accurate information to be given in response to any future request for a reference if the person has moved on.
- 11.2 The record will be retained at least until the person has reached normal retirement age or for a period of 10 years from the date of the allegation, if that is longer.

## 12. Action on Conclusion of a Case

- 12.1 Once the outcome of a case has been reached the Outcome Form (Appendix 1) will be completed by the Nursery and forwarded to the LADO after the member of staff has been given the opportunity to comment formally on the process. This form will be retained by the LADO.
- 12.2 If the allegation is substantiated and the person is dismissed or the Nursery ceases to use the person's services, or the person resigns or otherwise ceases to provide his/her services, then a referral to the Disclosure and Barring Service (DBS) must be made by the Nursery.
- 12.3 In cases where it is decided on the conclusion of the case that a person who has been suspended can return to work, the Nursery will consider how best to facilitate that. We appreciate that most people will benefit from some help and support to return to work after a very stressful experience. Depending on the individual's circumstances, a phased return and/or the provision of a mentor to provide assistance and support in the short term may be appropriate. The Nursery will also consider how the person's contact with the child or children who made the allegation can best be managed if they are still attending the nursery.

## 13. Action in Respect of False Allegations

- 13.1 If an allegation is determined to be false, the manager will refer the matter to children's social services to determine whether the child concerned is in need of services, or may have been abused by someone else.
- 13.2 In the rare event that an allegation is shown to have been deliberately invented or malicious, the CPO will consider whether any disciplinary action is appropriate against the staff/child who made it. The police should be asked to consider whether any action might be appropriate against the person responsible if s/he was not a child.

## 14. How can we protect ourselves?

- 14.1 Unfortunately, because child abuse does occasionally take place in day care settings, staff may be subject to inappropriate accusation, so we have introduced these separate guidelines to remind staff of the measures that can be taken to reduce the risk of any inappropriate 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.

- If a child sustains an injury whilst in our care, we will record it on an accident form as soon as possible. When the child is collected, we will inform whoever picks the child up about the injury and ensure that they also sign the accident book.
- If a child arrives with an injury sustained elsewhere we will ask for an explanation and again record this in the accident book and ask whoever has brought in the child to sign the record.
- We will ensure that all staff undertake regular child protection training.
- We will ensure that all parents understand our role and responsibility in child protection. Within the nursery this will be to parents in writing and attached to the “Welcome to Sevenoaks Day Nursery” booklet.
- Our behavioural management policy states that no physical sanctions will be used and we will ensure that everyone complies with it in all rooms.
- We will try to avoid situations where an adult is left alone with a child. If this does occur, we will make sure that the door is left open and there are other people around.
- We will avoid engaging in rough physical play with children because this might be misconstrued and could cause injury to a child.
- We will avoid doing things of a personal nature for children that they can do for themselves.
- We will take up references, including whenever possible one from the candidate’s last employer, and will always question any gaps in employment history.
- All staff must have a full criminal records check.
- Volunteers, students and visitors will not be left alone with children or unsupervised.
- We will encourage an open door ethos, to enable staff to talk to the manager or deputy supervisors if they have concerns about the conduct of any of their colleagues.

This procedure was adopted at a meeting of the Trustees of the Sevenoaks Day Nursery Trust, held on \_\_\_\_\_

Signed, on behalf of the Trustees, \_\_\_\_\_

Role of signatory: \_\_\_\_\_

**Appendix 1**

<b>SEVENOAKS DAY NURSERY</b>									
<b>OUTCOME FORM - ALLEGATION MADE AGAINST A STAFF MEMBER</b>									
<b>Explanatory Statement</b> <p>It is imperative that an accurate record is maintained on all allegations against professionals for the protection of children and the individual involved. National Guidance requires that the LADO keep clear and comprehensive summary of allegations, how the allegation was followed up and resolved, and a note of any action taken and decision reached. This should be kept on an employee's confidential personnel file, and a copy provided to the person concerned.</p> <p>The purpose of this record is to enable accurate information to be given in response to any future request for a reference if the person has moved on. It will also provide clarification in cases where a future CRB Disclosure reveals information from the police about an allegation that did not result in a criminal conviction. It will also help to prevent unnecessary re-investigation if, as sometimes happens, an allegation resurfaces after a period of time.</p> <p>The record should be retained at least until the person has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.</p>									
<b>Name:</b>									
<b>Date of allegation:</b>									
<b>Summary of allegation:</b>									
<b>How allegation was followed up:</b>									
<b>Action taken and decisions reached:</b>									
<b>Outcome of Management Investigations</b>									
<b>Substantiated</b>	<input type="checkbox"/>	<b>Unsubstantiated</b>	<input type="checkbox"/>	<b>Unfounded</b>	<input type="checkbox"/>	<b>Malicious</b>	<input type="checkbox"/>	<b>False</b>	<input type="checkbox"/>
<b>Action taken:</b> (ie: words of advice, further training, disciplinary procedure. Please indicate here if school will be referring this member of staff to the Disclosure & Barring Service)									
<b>Date this matter resolved with Member of Staff</b>									

**Employee comments:**

Signature: .....

**Signature and status of person completing this form**

.....

**Print name:**

.....

**Definitions**

**Substantiated -**

A substantiated allegation is one which is Supported or established by evidence or proof

**Unsubstantiated -**

An unsubstantiated allegation 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.

**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.

**Deliberately invented or 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.

**False -**

An allegation is deemed to be false if there is sufficient evidence to disprove the allegation.

**Please return this form within two weeks of concluding your investigation to:**

**Local Authority Designated Officer for Kent (LADO)  
Maidstone  
Kent**

**Date Form sent:**

## Appendix 2

### Guidance for the type of information that should be recorded upon receiving an initial allegation against a staff member

1. Record the name and position of member of staff against whom the allegation or complaint has been made.
2. Verbal complaints should be backed up in writing by the complainant if appropriate; although some may require immediate action that does not allow time for this to happen.
3. It is important to identify who made the complaint and whether it was received first hand or is a concern that is passed on from somebody else. If this is the case it is better that you receive the information first hand.
4. Record the full name, address, age and date of birth of the child.
5. The address recorded should be the address at which the child lives for the majority of time with its parent(s) or legal guardian(s).
6. If there are one or more alleged incidents, be as specific as possible about the dates that they are alleged to have happened.
7. Check the attendance register to see if the child was present/seen on that day and the shift pattern of the staff member involved to see if they were working at that time. This will confirm the likelihood of the incident having taken place.
8. If you have received the complaint in writing attach it to your written record. You can then summarise it on your record.
9. Any other information should be factual. It will be helpful if you can confirm things such as the level of contact that the staff member has with the child and any other minor concerns that may have been raised previously. **Do not attempt to investigate the complaint yourself.**
10. Remember that if an allegation of abuse is made against a member of staff you must inform the Child Protection Officer who will contact the Local Authority Designated Officer for further advice.
11. If the allegation is against the Nursery Manager then you should speak to the Chair of the Management Committee (or any other member of the management Committee or Trustees) who will follow the procedures above.