

8 Procedure in respect of Allegations Against Staff, Carers and Volunteers

Executive Summary

This summary introduces a procedure for dealing with allegations against staff, volunteers and foster carers and is addressed to employers and organisations responsible for providing services to children, young people and adults who are parents or carers.

The new allegation management process was agreed by Rotherham Safeguarding Board in October 2006 and organisations will now have to review their internal procedures to ensure that they are compliant with the requirements. These procedures should be followed with immediate effect.

The procedures have been developed within South Yorkshire as a response to “Working Together to Safeguard Children 2006¹” which sets out, as statutory guidance, the responsibility placed on all employers² and other organisations who provide services to children to take steps when allegations of abuse or other inappropriate behaviour toward a child are made against someone in that organisation (Section 6.20 onwards and Appendix 5). A copy of Working Together can be downloaded from: www.everychildmatters.gov.uk/resources-and-practice/IG00060.

The aim of the procedures is to:

- Ensure that allegations are dealt with expeditiously and in a fair manner
- Ensure that where staff are not suitable to work with children they are prevented from doing so by notification to relevant bodies

The local authority has appointed a designated officer (Local Authority Designated Officer – LADO) to oversee the investigation of all allegations and to maintain detailed records of their conduct and the outcomes. This is the Safeguarding Manager who can be contacted by telephone on (01709) 823977 or by email on jim.stewart@rotherham.gov.uk to answer general enquiries about these procedures and their implementation.

Advice and guidance in respect of individual cases can be accessed by contacting the Safeguarding Children Unit on (01709) 822390/823914.

¹ “Working Together 2006 A guide to inter-agency working to safeguard and promote the welfare of children” HM Government 2006

² In the procedures there is a definition of the term ‘employer’

Responding to, and Managing, Allegations against Staff, Carers and Volunteers

1 INTRODUCTION

- 1.1 These procedures should be used by all organisations providing services for children, including those who provide staff or volunteers to work with or care for children.
- 1.2 For convenience the term employer is used throughout these procedures to refer to organisations that have a working relationship with the individual against whom the allegation is made.
- 1.3 The term includes organisations that use the services of volunteers, or people who are self employed, as well as service providers, voluntary organisations, employment agencies or businesses, contractors, fostering services, regulatory bodies such as OFSTED in the case of childminders, and others that may not have a direct employment relationship with the individual, but will need to consider whether to continue to use the person's services, or to provide the person for work with children in future, or to deregister the individual.
- 1.4 In some circumstances the term "employer" for these purposes will encompass more than one organisation. For example where staff providing services for children in an organisation are employed by a contractor, or where temporary staff are provided by an agency. In those circumstances both the contractor or agency, and the organisation in which the accused individual worked will need to be involved in dealing with the allegation.
- 1.5 The procedures are based on the framework for dealing with allegations made against a person who works with children, detailed in Chapter 6 and Appendix 5 of Working Together 2006³ (Working Together), and should be applied when there is an allegation 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

³ Working Together to Safeguard Children - A guide to inter-agency working to safeguard and promote the welfare of children HM Government 2006
<http://www.everychildmatters.gov.uk/socialcare/safeguarding/workingtogether/>

Behaved towards a child or children in a way that indicates s/he is unsuitable to work with children in connection with his/her employment or voluntary activity, or where:

- Concerns arise about the person's behaviour with regard to his/her own children
- Concerns arise about the behaviour in the private or community life of a partner, member of the family or other household member

1.6 There may be up to 3 strands in considering a concern or an allegation:

- A Police investigation of a criminal offence
- Enquiries and assessment by Children and Young People's Services about whether a child or young person is in need of protection or is in need of services
- Consideration by an employer² of disciplinary action in respect of the individual

1.7 If an allegation relating to a child is made about a person who undertakes paid or unpaid care of vulnerable adults, consideration should be given to the possible need to alert those who manage her/him in that role.

1.8 These procedures can also be applied if a complaint or an allegation is made against a person in relation to his/her work with adult service users, which causes concern about the welfare of an adult service user's children.

1.9 Compliance with these procedures should help ensure that allegations of abuse are dealt with expeditiously, consistent with a thorough and fair process.

2 ROLES AND RESPONSIBILITIES

2.1 MEMBER ORGANISATIONS OF ROTHERHAM SAFEGUARDING CHILDREN BOARD

2.1.1 Rotherham Safeguarding Children Board (RSCB) has responsibility for ensuring there are effective inter-agency procedures in place for dealing with allegations against people who work with children and for monitoring and evaluating the effectiveness of those procedures.

² See Section 1 for scope of term 'Employer'

2.1.2 In order to do this, each RSCB member organisation should identify a named senior officer with overall responsibility for:

- Ensuring that the organisation operates these procedures for dealing with allegations
- Resolving any inter-agency issues
- Liaising with the RSCB on the subject

2.2 THE LOCAL AUTHORITY

2.2.1 Rotherham Metropolitan Borough Council will appoint a designated officer (Local Authority Designated Officer) who will:

- Be involved in the management and oversight of individual cases
- Provide advice and guidance to employers and voluntary organisations
- Liaise with the Police and other agencies
- Monitor the progress of cases to ensure that they are dealt with as quickly as possible consistent with a thorough and fair process

2.3 OTHER EMPLOYERS³

2.3.1 Other employers should:

- Put in place and operate arrangements for handling allegations in accordance with these procedures
- Identify a senior manager to whom allegations or concerns should be reported, and a deputy in his/her absence or if he/she is the subject of the allegation

2.4 SOUTH YORKSHIRE POLICE

2.4.1 South Yorkshire Police should identify a senior officer to:

- Have strategic oversight of the arrangements
- Liaise with the RSCB
- Ensure compliance within the organisation

³ See Section 1

2.4.2 Identify a designated officer to:

- Liaise with the LADO
- Take part in strategy or evaluation discussions (see section 9)
- Review the progress of cases in which there is a Police investigation
- Share information as appropriate, on completion of an investigation or related prosecution

3 RECOGNISING AND RESPONDING TO AN ALLEGATION

3.1 There are a number of sources from which a complaint or an allegation might arise including from:

- A child or an adult
- A parent/carer
- A member of the public
- A disciplinary investigation

3.2 Agencies⁴ covered by these procedures should have in place their own policies, procedures and guidance relating to the conduct of their employees and they should be used to ensure compliance with these procedures

4 RESPONDING TO A COMPLAINT OR AN ALLEGATION MADE TO AN EMPLOYER

4.1 The person to whom an allegation or concern is reported should not question the child or investigate the matter further and should:

- Treat the matter seriously
- Avoid asking leading questions and keep an open mind
- Communicate with the child (if the complainant) in a way that is appropriate to the child's age, understanding and preferred language or communication style
- Make a written record of the information (where possible in the child's own words), including:
 - ❖ When the alleged incident took place (time and date).
 - ❖ Who was present
 - ❖ What was said to have happened
- Sign and date the written record

⁴ See Section 1 for scope of this term

- Report the matter immediately to the designated senior manager, or deputy in his/her absence or where the senior manager is the subject of the allegation

5 INITIAL ACTION BY THE DESIGNATED SENIOR MANAGER

- 5.1 The designated senior manager should not investigate the matter by interviewing the accused person, the child or potential witnesses, and should:
- Obtain written details of the allegation, signed and dated by the person receiving the complaint, or allegation (not the child/person making the allegation)
 - Countersign and date the written details
 - Record any other 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.
- 5.2 If the allegation meets any of the criteria in paragraph 1, 1.5–1.7 the designated senior manager should report it to the LADO within 1 working day.
- 5.3 Referral should not be delayed in order to gather information. Overall compliance with the procedures will be monitored and evaluated by the RSCB. Instances of non-compliance will be identified and followed up.
- 5.4 If a concern or an allegation requiring immediate attention is received outside normal office hours the designated senior manager should consult straight away with the Children's Social Care Out of Hours Team (Tel: 01709 364689) or local Police and also ensure that the LADO is informed the next working day.

6 RESPONDING TO A COMPLAINT OR AN ALLEGATION MADE TO THE POLICE

- 6.1 If a Police Officer receives an allegation s/he should report it without delay to the Designated Liaison Officer who should inform the LADO straight away (or ensure that the LADO is informed the next working day if the allegation is received out of hours).

7 RESPONDING TO A COMPLAINT OR AN ALLEGATION MADE TO CHILDREN'S SOCIAL CARE

- 7.1 If the complaint or allegation is received by Children's Social Care the person receiving the allegation should report it straight away to the LADO (or ensure that the LADO is informed without delay if the complaint or allegation is received out of hours).

8 INITIAL CONSIDERATION BY A DESIGNATED SENIOR MANAGER AND THE LOCAL AUTHORITY DESIGNATED OFFICER

- 8.1 The LADO and designated senior manager should:
- Establish that the allegation is within the scope of these procedures
 - Verify whether there is evidence or information that establishes that the allegation is false or unfounded
 - Consider whether further details are needed
- 8.2 The LADO will notify the employer/designated manager of reports made via the Police and Children's Social Care.

9 STRATEGY DISCUSSION AND INITIAL EVALUATION DISCUSSION

- 9.1 If the allegation is not patently false and there is cause to suspect that a child is suffering or is likely to suffer significant harm⁵ the LADO should immediately refer to Children's Social Care and ask them to initiate a strategy discussion straight away.
- 9.2 The Police must be informed about any case in which a criminal offence involving a child may have been committed.
- 9.3 If the significant harm threshold is not reached, but a Police investigation might be needed, the LADO should tell the Police immediately and initiate an initial evaluation discussion with the Police, employer and other agencies involved with the child to evaluate the complaint or allegation and decide how it should be dealt with.
- 9.4 A strategy discussion or initial evaluation can be conducted by way of a series of telephone calls but it should take the form of a face-to-face meeting with a dedicated minute taker wherever practicable.

⁵ See Adoption and Children Act 2002 S.120 and Children Act 1989 S.31 (9)

- 9.5 A Protection and Planning Officer (Rotherham Safeguarding Children Unit) will normally chair the meeting and the participants should be sufficiently senior to contribute all relevant available information about the allegation, the child and accused person and make decisions on behalf of their agencies.
- 9.6 They may include:
- Local Authority Designated Officer (LADO)
 - Relevant Social Worker and his/her manager
 - Supervising Social Worker and his/her manager when an allegation is made against a foster carer
 - Designated Liaison Officer from the Police
 - Designated senior manager for the employer/establishment concerned
 - Senior representative of the employment agency or voluntary organisation if the member of staff or volunteer has been placed by them, unless it is alleged that they have colluded or failed to respond to previous complaints
 - Those responsible for regulation and inspection where applicable eg CSCI or OFSTED
 - Human Resources representatives as appropriate
 - A medical practitioner with an appropriate area of specialist knowledge
 - Where a child is placed by or resident in the area of another local authority, a representative of that authority
 - Complaints Officer if the concern has arisen from a complaint or a complaint investigation is in progress
 - A representative of the legal department of the local authority
- 9.7 In the case of an initial evaluation discussion Children's Social Care need only take part if they are involved with the child or have a contribution to make.
- 9.8 The strategy discussion or initial evaluation, as appropriate, should also:
- Consider the three possible strands set out in Section 1.6 above
 - Review any previous concerns or allegations about conduct of the accused person
 - Decide whether there should be a Section 47 (Children Act 1989) enquiry and/or police investigation and consider the implications

- Consider whether any parallel disciplinary process should take place
- Consider whether a complex abuse investigation is applicable
- Scope and plan enquiries
- Allocate tasks
- Set time-scales
- Decide what information can be shared, with whom and when
- Ensure that arrangements are made to protect the child/ren involved and any other child/ren affected, including taking emergency action where needed
- Consider what support should be provided to all children who may have been affected directly and indirectly
- Consider what support should be provided to the person against whom the complaint or allegation has been made and others who might have been affected
- Ensure that investigations are sufficiently independent.
- Make arrangements to inform the child's parents, and consider how to provide them with support and information during enquiries
- Make recommendations where appropriate regarding suspension, or alternatives to suspension, of the subject of the complaint or allegation
- Identify a lead contact manager within each agency
- Agree protocols for reviewing investigations and monitoring progress by the LADO, noting the target timescales
- Agree dates for future strategy or evaluation discussions or meetings
- Consider obtaining consent from the individuals concerned by the Police and Children's Social Care to share the statements and evidence they obtain with the employer and/or regulatory body for disciplinary purposes

9.9 If the allegation is about physical contact, the strategy discussion or initial evaluation should take account of any entitlement by staff in certain professions to use reasonable force to control or restrain children in certain circumstances eg Section 550A Education Act 1996 in respect of teachers and authorised school staff.

10 REVIEWING PROGRESS

10.1 The LADO should regularly monitor the progress of cases either by:

- Review strategy discussions.

Or:

- By liaising with the police and/or children's social care.

10.2 A final strategy or evaluation discussion should be held at the end of enquiries to ensure that all tasks have been completed and where appropriate to agree an action plan for learning lessons in order to inform future practice.

11 RESIGNATIONS AND "COMPROMISE AGREEMENTS"

11.1 The fact that a person tenders his or her resignation or ceases to provide their services must not prevent an allegation from being followed up in accordance with these procedures and a conclusion reached.

11.2 A so called "compromise agreement" by which a person agrees to resign, the employer agrees not to pursue disciplinary action and both agree a form of words to be used in any future reference must not be used in situations which are relevant to these procedures.

11.3 In any event, such an agreement will not prevent a thorough Police investigation where appropriate.

11.4 Wherever possible the person should be given a full opportunity to answer the allegation and make representations about the allegation. The investigation should continue to a conclusion even if that cannot be done or the person refuses to co-operate.

12 DISCIPLINARY PROCESS OR ASSESSMENT REGARDING SUITABILITY

12.1 The LADO and the designated senior manager should discuss and agree what action is appropriate in all cases where:

- It is clear at the outset or decided by a strategy discussion or initial evaluation that investigations by the Police or enquiries by Children's Social Care are not necessary
- The employer and LADO is informed by the Police or the Crown Prosecution Service (CPS) that a criminal investigation and any subsequent trial is complete or that an investigation is to be closed without charge or a prosecution discontinued.

- 12.2 The discussion should consider any potential misconduct or gross misconduct on the part of a staff member and take into account:
- Information provided by 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
- 12.3 The options will range from no further action to summary dismissal or not using the person's services in future.
- 12.4 Where the initial evaluation decides that the allegation does not involve a possible criminal offence it will be dealt with by the employer who should institute appropriate action within 3 working days.
- 12.5 If a disciplinary hearing is required and it can be held without further investigation, the hearing should be held within 15 working days.
- 12.6 Where further investigation is needed to decide upon disciplinary action, the employer and the LADO should discuss who should undertake that.
- 12.7 In some circumstances it may be appropriate for the disciplinary investigation to be conducted by a person who is independent of the employer or person's line management to ensure objectivity.
- 12.8 The investigating officer should aim to provide a report within 10 working days.
- 12.9 On receipt of the report, the employer should decide within 2 working days whether a disciplinary hearing is needed and if so it should be held within 15 working days.

13 SHARING INFORMATION FOR DISCIPLINARY PURPOSES

- 13.1 If the Police or Crown Prosecution Service decide not to charge or decide to administer a caution, or the person is acquitted, the Police should pass all relevant information to the employer without delay.
- 13.2 If the person is convicted, the Police should inform the employer straight away so that appropriate action can be taken.
- 13.3 Consideration should be given at the beginning of enquiries by the Police and Children's Social Care to gaining consent from those

involved to use the statements obtained and information gathered in disciplinary proceedings.

- 13.4 This will enable Children's Social Care, the Police and Crown Prosecution Service to share relevant information without delay at the conclusion of their investigation or any court case.

14 RECORD KEEPING

- 14.1 Employers should keep a clear and comprehensive summary of the case record on a person's confidential personnel file and give a copy to the individual.
- 14.2 The record should include details of how the allegation was followed up and resolved, the decisions reached and the action taken. It should be kept at least until the person reaches normal retirement age, or for 10 years if longer.
- 14.3 The record will provide accurate information for any future reference and provide clarification if a future Criminal Record Bureau (CRB) disclosure reveals an allegation that did not result in a prosecution or a conviction. It will prevent unnecessary re-investigation if the allegation should resurface.

15 MONITORING PROGRESS

- 15.1 The LADO will keep comprehensive records in order to ensure that each case is being dealt with expeditiously and that there are no undue delays.
- 15.2 The records will assist Rotherham Safeguarding Children Board to monitor and evaluate the effectiveness of the procedures for managing allegations and provide statistical information to the DCFS as required.
- 15.3 The Police can consult the Crown Prosecution Service (CPS) at any stage about the evidence needed to charge a person, but they should also set target dates for reviewing the progress of the investigation and consulting the CPS about charging, continuing or closing the investigation.
- 15.4 This should be no later than 4 weeks after the initial evaluation wherever possible and fortnightly or monthly thereafter, if the investigation continues.

16 ACTION IN RESPECT OF UNSUBSTANTIATED ALLEGATIONS

- 16.1 Where there is insufficient evidence to substantiate an allegation the employer should consider what further action, if any, should be taken.

17 ACTION IN RESPECT OF FALSE ALLEGATIONS

- 17.1 False allegations are rare and may be a strong indicator of abuse elsewhere requiring further exploration. If an allegation is false, the employer, in consultation with the LADO, should refer the matter to Children's Social Care to determine whether the child is in need of services, or might have been abused by someone else.
- 17.2 If an allegation has been deliberately invented or malicious, the Police should be asked to consider whether any action might be appropriate against the person responsible.

18 REFERRAL TO DCFS LIST 99, PROTECTION OF CHILDREN ACT LIST OR REGULATORY BODY

- 18.1 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/her services, the LADO should discuss with the employer whether a referral should be made for consideration as to the individual being barred from, or have conditions imposed in respect of, working with children.
- 18.2 If it is agreed that a referral is required or desirable, the LADO should advise on the form and content of such a referral and whether it should be made to the Protection of Children Act List or DCSF list 99.
- 18.3 The LADO should also advise whether it is appropriate to make a referral to a professional body or regulator eg the General Social Care Council, General Teaching Council and the General Medical Council.
- 18.4 If a referral is appropriate the report should be made within one month.

**ALLEGATIONS/CONCERNS AGAINST STAFF
ACTION BY SENIOR MANAGER AND LA DESIGNATED OFFICER**

