

Allegations against staff

Guidance for adults facing an allegation of child abuse at work



Introduction

The aim of this guide is to provide the processes involved and the support and guidance available, if it is alleged that you have:

- Behaved in a way that has harmed a child or may have harmed a child, or
- Possibly committed a criminal offence against or related to a child, or
- Behaved towards a child or children in a way that indicates you may pose a risk of harm to children.

Initial action

Your manager or agency designated manager will consider initial action, taking advice from the Local Authority Designated Officer (LADO). That person will consult with Children's Social Care and Police as necessary. The Police may advise that you are not told about the allegation immediately in order not to compromise any potential investigation.

The LADO will advise one, or a combination of the following:

- (a) The child/young person requires enquiries and assessment by children's social care about whether they are in need of protection or services.
- (b) Police investigation of a possible criminal offence.
- (c) Consideration by the employer or organisation of disciplinary action (or of advice and training if the concern is more minor).
- (d) After any initial enquiries, the allegation is without foundation and no further action is necessary.

If (a) or (b) is being considered, an Allegations Management Strategy Discussion will take place involving the LADO, Police, Social Care, your Manager and Human Resources. You will not be invited. The discussion will focus on the needs of the child/ren who may be at risk and draw together actions under the three strands (a) to (c) above. It will determine what action should be taken but it is not part of any disciplinary procedures.

If (c) is considered an investigation will be initiated under your Employer/engaging organisation's disciplinary and/or capability procedures (where relevant).

If (d) is considered, you will be told verbally and in writing by your employer/engaging organisation that the allegation is without foundation, and that no further action will be taken.



Types of Possible Investigation

- Child protection enquires by Children's Social Care (Under Section 47 or Section 17 of the Children Act 1989)
- Criminal Investigation by Police
- Disciplinary/capability investigation by the employer/engaging organisation (where relevant).

A disciplinary investigation is usually held in abeyance until external agency investigations are complete, unless prior agreement is reached with the Police, LADO and Children's Social Care. Whilst these investigations should be conducted as speedily as possible, they should also be balanced against the need to be thorough and fair, in line with the principles of natural justice. Statements taken in external investigations (e.g. the Police) may be used in subsequent disciplinary proceedings.

Suspension

A decision to suspend rests solely with your employer, or engaging organisation. Suspension is a neutral act, and should not be automatic. Where possible, the decision to suspend will be informed by the Strategy Discussion at an Allegations Management Strategy if appropriate, and should only occur when:

- A child or young person may be at risk
- The allegations are so serious that dismissal for gross misconduct is possible
- Suspension is necessary to allow the conduct of the investigation to proceed unimpeded.

Alternatives to suspension should always be considered e.g. leave of absence, transfer of duties, additional supervision, etc.

Where suspension is being considered an interview will normally be arranged by your employer/engaging organisation. You have the right to be accompanied by a Trade Union/Professional Association representative or a friend at such an interview. You are advised to seek the assistance of your Trade Union/Professional Association representative, wherever possible. If you are suspended, one of his/her roles will be to promote your interests and raise issues that may be of concern to you.

Your employer will follow their own HR policies and procedures in relation to suspension of staff.

You will however be notified in writing of the suspension with as much detail as possible of the reasons for the suspension provided that in doing so it would not compromise ongoing Police and/or Social Care investigations.

Who will be notified?

People, including other staff or volunteers, should only be told about the allegation on a 'need to know basis'. Notification may be delayed if Police think this could prejudice an investigation. Those who will be told of the allegation and likely course of action include you, the child or young person concerned, his/her parent/carer, the person making the allegation, your manager, and the Human Resources representative where appropriate.

If you are suspended and a Governing Body is involved, for example in the case of a teacher, they will be given limited information so any potential future disciplinary process is not prejudiced.

If the matter becomes common knowledge, particularly in the case of a school, it may be necessary to issue a brief statement, agreed by the agencies concerned to parents, pupils and the public.

Support

You should be:

- Advised to contact your Union or professional association representative.
- Given a workplace contact, if you are suspended, who will update you about normal activities. Social contact with colleagues should not be precluded unless detrimental to the investigation. The type of information and frequency of contact should be agreed, but colleagues should not comment on or discuss the investigation (including the concern/allegation itself).
- Offered Staff Support/Counselling Service and/or Occupational support if available.

Return to work

If you have been suspended and it is decided you should return to work, your Union/professional association representative can assist in negotiating and planning this return.

What records will be kept?

Your employer will ensure records are kept confidentially and in line with record retention policy and procedures.

The LADO will also keep a central record of all allegations. Other agencies, if involved will keep their own records. This will include names and addresses, date of birth of the individual and also the details of their children and any other children they may come into contact with. A referral to Multi Agency Safeguarding Hub (MASH) may be made if there is a perceived safeguarding risk.

Possible outcomes which will be recorded include substantiated, unsubstantiated, unfounded, deliberately invented or malicious, no case to answer etc.

All agencies involved will keep their own records

Disclosure and Barring Service (DBS), Children and Adults Barring List

If you are dismissed for misconduct (for a safeguarding related reason) or otherwise considered unsuitable to work with children, or you resign but may have been dismissed if you hadn't, your employer must refer the case to the DBS for consideration of barring you from, or restricting future Employment with children. If referred, the DBS will give you the right to make representation.

Alleged criminal offences

If there is a Police investigation, you may be arrested or invited to the Police station to assist with the investigation. If arrested or interviewed, you should be cautioned as follows: "You do not have to say anything but it might harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence."

At the Police station you will be entitled to free and independent legal advice from a duty solicitor. If you choose your own solicitor, make sure s/he specialises in criminal law. If you are not under arrest, you should be told that you are free to leave if you wish to do so.

The Custody Officer will keep a record of your detention, and explain your rights, e.g. have someone informed, to make a phone call, and to consult and read the "Code of Practice" covering treatment during detention and interview.

You may be held up to 24 hours, after which you must be charged or released. In more serious cases, this can be extended to 36 and 96 hours, on the authority of a Superintendent or Magistrate.

The Crown Prosecution Service (CPS) is responsible for decisions about charging and prosecution, and you will be consulted early in the investigation. If you admit the offence, the CPS may advise that you will be formally cautioned. You should seek advice from your Union/Solicitor before accepting a caution, because it may influence a decision about proceedings should you offend again. It could also affect your ability to work with children in the future, and in sexual abuse cases you could be placed on the Sex Offenders Register.

If the CPS advises charging this will be carried out by the Custody Officer. You will be released on bail to appear in court at a future date or kept in custody to appear at the next available court.



You are strongly advised to seek support in the above circumstances

More information

More detailed information about the process can be found on the Knowsley Safeguarding Children's Board website:

www.knowsleyscb.org.uk/professionals/multi-agency-training/

The investigation is governed by government guidance, which can be read in "Working Together to Safeguard Children" March 2015:

www.gov.uk/government/publications/working-together-to-safeguard-children--2



Knowsley Council

Knowsley Safeguarding Children Board

Knowsley Safeguarding Children Board (KSCB) is an independent statutory body responsible for ensuring that individuals and organisations work effectively together to safeguard children in Knowsley.