



## Merry Poppets Nursery

### Procedure in the event of an allegation being made against members of staff

It is recognised that whilst staff are uniquely placed to detect signs and indicators of child abuse, they are themselves particularly vulnerable to malicious or misplaced allegations made by children either deliberately or innocently, arising from normal association with them within the setting.

Children can be subjected to abuse by those who work with them in any and every setting. All allegations of abuse or maltreatment of children by a professional, staff member, or volunteer must therefore be taken seriously and treated in accordance with consistent procedures. (Working together to safeguard children, 2010)

**Staff** are not permitted to have their mobile phones or any other electronic devices with imaging and sharing capabilities on them whilst any visitors are asked to switch off all devices. Staff place their phones and other electronic devices (turned off) in the allocated box in the staff room. Managers have their phones on silent and out of sight.

**Cameras, ipads**-all photographs are deleted after being printed or uploaded onto Parentzone, and parents' permission is sought.

When a child makes an allegation of abuse by a member of staff, the person receiving the allegation must take it seriously and deal with it by informing the safeguarding officer (if the allegation is not against that person) and senior management. Failure to do so may result in disciplinary action.

BEDFORD BOROUGH, CENTRAL BEDFORDSHIRE AND LUTON LOCAL SAFEGUARDING CHILDREN BOARD PROCEDURES FOR MANAGING ALLEGATIONS AND CONCERNS REGARDING STAFF, CARERS AND VOLUNTEERS WORKING WITH CHILDREN AND YOUNG PEOPLE is the guidance we follow. This can be found

<https://bedfordscb.proceduresonline.com>

An Allegation is described as a concern or complaint.

What constitutes an Allegation.....

To be an Allegation the alleged incident has to be sufficiently serious as to suggest that harm has or may have been caused to a child, or that the alleged behaviour indicates the individual may pose a risk of harm to children.

They have:

- Behaved in a way that has harmed a child or may have harmed a child; and/or
- Possibly committed a criminal offence against or related to a child; and/or
- Behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children; and/or
- Behaved or may have behaved in a way that indicates they may not be suitable
- to work with children (incidents that happen outside nursery might make an individual unsuitable to work with children, this is known as a transferable risk).

A transferable risk constitutes if they:

- Have behaved in a way in their personal life that raises Safeguarding concerns. These concerns do not have to directly relate to a child but could, for example include an arrest for the possession of a weapon;
- Have as a parent/Carer, become subject to a child protection procedure.



- Are closely associated with someone in their personal lives (e.g. partner/member of the family or other household member) who may present a risk of harm to child/ren for whom the adult is responsible in their employment/volunteering.

An Allegation can come from a number of sources:

A Child.

Parents, either directly or through Ofsted or Social Services.

Current or former staff of the Nursery.

An Ofsted inspector during/following a routine inspection.

The difference between an allegation and a concern.

It might not be clear whether an incident constitutes an 'allegation'. It is important to remember that to be an allegation, the alleged incident has to be sufficiently serious as to suggest that harm to a child/ren or that the alleged behaviour indicates the individual may pose a risk of harm to children.

If it is difficult to determine the level of risk associated with an incident the following should be considered:

- Was the incident a disproportionate or inappropriate response to challenging behaviour/situation.
- Where the incident involved an inappropriate response to challenging behaviour, had the member of staff had training in managing this?
- Does the member of staff understand that their behaviour was inappropriate and express a wish to behave differently in the future? E.g., are they willing to undergo training?
- Does the child or family want to report the incident to the police or would they prefer the matter to be dealt with by the employer?
- Have similar allegations been made against the employee-is there a pattern developing?

Incidents that fall short of the threshold could include an accusation that is made second or third hand and the facts are not clear, or the member of staff alleged to have done this was not there at the time, or there is confusion about the account.

Where it is decided that the incident does not meet the threshold of harm/risk of harm and is a concern only, then the employer should take steps to ensure any conduct or behaviour issues are addressed with the member of staff through normal employment practise.

#### Threshold Considerations

Concerns about the behaviour of an adult who works with children may be made in the form of complaint or an allegation.

Initial consideration as to whether there are Safeguarding issues should be given to all concerns before any complaint's procedure is invoked.

The context in which an incident is alleged to have occurred is significant in understanding whether it is a child protection concern or not. Whilst some behaviour may not constitute a criminal offence, and some may not reach the threshold of significant harm, consideration will need to be given as to whether they indicate the person may pose a risk of harm to children they work with. This may include concerns about a person's behaviour in respect of their own



children, and occasions when boundaries have been blurred, inappropriate behaviour has taken place.

Working Together To Safeguard Children states that Local Authorities should designate a local Authority Designated Officer (LADO) team of designated officers to:

- Be involved in the management and oversight of individual cases.
- Provide advice and guidance to employers.
- 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.

All settings identify a Senior Manager to whom allegations or concerns that a member of staff may have abused a child should be reported to. These Senior managers are also responsible for child protection and take the lead in any Safeguarding issues. They are responsible for ensuring that the child/ren is not at risk and take the lead in referring the suspected abuse to the local authorities (LADO). The procedures will also identify an alternative person to whom reports should be made in the absence of the senior manager or in cases where that person is the subject of the allegation or concern.

Support for the person subject of the allegation.

The person should not be informed of the allegation until a discussion with Senior Management and the LADO/ Team of designated officers has taken place as this might impede the investigation. The only circumstances where it is acceptable to inform the accused person of the fact of the allegation is where there is a delay in contacting the LADO/or LADO not responding, in which case the decision to share the allegation should be taken to avoid potentially placing children at further risk.

Once the decision has been made to inform the person, the employer (Human Resources) will keep the (subject) of the allegation informed of the process in the case, and arrange to provide appropriate support to the individual while the case is ongoing.

If the person is suspended, the employer (Human Resources) will make arrangements to maintain contact with the individual at regular intervals i.e. Weekly/fortnightly.

The person who is the subject of the allegation should be treated fairly and honestly, and be helped to understand the concerns expressed, and the process involved.

#### CONFIDENTIALITY

Information about an allegation or concern must be restricted to those who have a need to know in order to: - Protect children.

- Facilitate enquiries.
- Avoid victimisation.
- Safeguard the rights of the person about whom the allegation has been made and others who may be affected.
- Manage disciplinary/ complaint aspects.

#### Suspension

Suspension is a neutral act and will not be automatic or considered as a default position. It should be considered in any case where:

- There is case to suspect that a child is suffering or is likely to suffer significant harm.
- The allegation warrants investigation by the police.

The allegation is so serious that it might be grounds for dismissal.



A decision to suspend or temporarily re-deploy a staff member rests exclusively with the employer. In some cases, it will not be immediately obvious that suspension is appropriate and the need for this course of action may only become clear after information has been shared, and a discussion has been held with other agencies and Human Resources. (Re-deployment to a different room/ setting) the member of staff may be refrained from some duties until further assessment has occurred to determine the nature and level of risk. These alternatives allow time for an informed decision and investigation also when an allegation or safeguarding concern is being investigated it is likely to be a very stressful experience for the adult subject to the investigation and potentially for their family members. This does not imply innocence or guilt.

The staff member may have questions as to why this has been requested. If asked, the senior manager will inform the staff member that a safeguarding concern has been brought to the attention of the management. This cannot be discussed any further but there will be a formal opportunity to respond at a later date.

It is important that we as the employer offer appropriate welfare support at such a time and we recognise the sensitivity of the situation. Information is confidential and should not ordinarily be shared with other staff or with children or parents who are not directly involved in the investigation.

If a staff member has been suspended, and is return to work, appropriate help/ support and supervision arrangements will be offered and put in place e.g. phased return and/ or provision of a mentor, and how to manage the contact with any child/ren who made the allegation.

If suspension is deemed appropriate the reasons and justification should be recorded and the individual notified of the reasons.

**A REFERRAL WILL ALWAYS BE MADE IF THE SENIOR MANAGEMENT TEAM THINK THAT THE INDIVIDUAL HAS HARMED A CHILD OR POSES A RISK OF HARM TO CHILDREN.**

In some cases, an allegation of abuse against someone closely associated with a member of staff e.g. partner, member of the family, or other household member, may present a risk to children for whom the member of staff is responsible. In these circumstances a discussion will take place with the LADO.

**DEALING WITH AN ALLEGATION** that doesn't meet the criteria sufficiently serious as to suggest that harm has or may have been caused to a child or that the alleged behaviour of the subject indicates the individual may pose a risk of harm to children.

- Apply common sense and judgement.
- Deal with allegations quickly, fairly and consistently.
- Provide effective protection for the child/ren and support the person subject to the allegation.

**BEFORE CONTACTING LADO** – Make basic enquiries in line with the local procedures to establish the facts and to help determine whether there is any foundation to the allegation, being careful not to jeopardise any future police investigations e.g.

- Was the individual in the setting/ room at the time of the allegation.
- Did the individual, or could the individual have come into contact with the child.
- Are there any witnesses.

**INITIAL ACTION TO BE TAKEN BY THE DESIGNATED SENIOR MANAGEMENT**



When informed of a concern or allegation by an adult, the designated Senior Manager should: -

- Obtain written details of the concern/ allegation, signed and dated by the person making/witnessing the concern/ allegation.
- Record any information regarding times, dates and location of incident/s and names of any witnesses.
- Record discussions about the child and/ or member of staff, any decisions that are made, and reasons for those decisions.
- Inform the LADO within 1 working day when the allegation is made and prior to any further investigations taking place.
- Inform Ofsted of any allegations or concerns that are being made against the member of staff.

DEALING WITH AN ALLEGATION that has sufficient evidence to suggest that harm has or may have been caused to a child or that their alleged behaviour indicates that the individual may pose a risk to children or that a criminal offence has been committed.

- Immediately suspend member of staff
- Inform the police
- Notify Ofsted
- Inform LADO of allegation and suspension
- Obtain a witness statement from the person/s making the alleged allegation/concern.
- Record any discussions/information regarding times, dates and location of incidents and names of any witnesses.

LADO – Local Authority Designated Officer

Initial considerations taken between Senior Management and the LADO.

LADO will consider three things with regards to an investigation.

- A police investigation of a possible criminal offence.
- Childrens Social care enquires and/or assessment about whether a child is in need of protection or services.
- Consideration by an employer of disciplinary action.

The LADO and senior management will consider first whether there is evidence or information that establishes that the allegation is false. Care should be taken to ensure that the child is not confused as to dates, times, locations or identity of the member of staff.

The Police will be consulted about any case in which a criminal offence may have been committed.

If the allegation is not demonstrably false and there is cause to suspect that a child is suffering or is likely to suffer significant harm, the LADO should refer to children's social care and ask them to convene an immediate strategy meeting/ discussion and other appropriate agencies such as Police and Social services will be involved.

First steps to dealing with an allegation made by an adult about a member of staff.

- Ensure immediate safety of all child/ren.
- Record in writing everything that you need to make the allegation.
- Approach a safeguarding officer and discuss with them the next step.



- Everything is to be kept confidential and staff must not discuss the situation with any other staff member/ parent.

First steps to dealing with an allegation from a child with regard to a member of staff.

- Listen and record in writing what the child is saying.
- Use TED technique (tell, explain, describe) Don't ask leading questions.
- The designated safeguarding lead must be informed immediately.
- Staff are not to discuss anything spoken about while in the presence of the children or amongst themselves.
- The staff members involved will then be called upon as and when needed.
- While an investigation is pending or commencing the staff member may be put on non-contact duties within the nursery depending on the severity of the situation.
- Staff members involved will then be called upon as and when necessary.
- LADO will be contacted for further advise.

If the allegation is in regard to Physical contact the strategy discussion or initial evaluation with the police will take account of the fact that pre-school staff are entitled to use reasonable force to control/restrain children in certain circumstances including dealing with challenging behaviour, under S93 of the Education and Inspections Act 2006.

#### Record Keeping

A clear and compressive 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. 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.

#### Outcomes from an investigation

There may be four possible outcomes to an allegation:

**Malicious** This implies a deliberate act to deceive. There is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false. Management will consider whether any disciplinary action is appropriate against the staff /child who made the allegation (or) if a parent deliberately makes false allegations, it is reasonable to ask them to withdraw their child from the setting.

- **Allegation Unfounded** This indicates that the person making the allegation misinterpreted the incident or was mistaken about what they saw. There is no evidence or proper basis which supports the allegation being made. It might also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw/ heard.

Action – In respect of unfounded, false or malicious allegations.

- If an allegation is determined to be unfounded, false or malicious consideration should be given to the possibility that the allegation might be an indicator of abuse elsewhere which requires further exploration and referral to children's services.
- **Unsubstantiated** this 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.

**Action – When it's concluded after enquiries that there is insufficient evidence to determine whether the allegation is substantiated, a review meeting should**



be convened to ensure that all the relevant information is passed to HR and management. The senior management will consider what further action if any, should be taken in consultation with LADO.

The member of staff concerned must be notified of the outcome and the child and his/her parents/carers should also be informed that an outcome has been reached. When deciding what information to disclose, careful consideration should be given to the data protection Act 1998, the law of confidence, and where relevant, the Human Rights act 1998.

Considerations must be given to: -

- Any support the staff member may need, particularly if returning to work following suspension.
- The provision of support and counselling to the child, and if appropriate to the parents/carers of the child.
- How to manage/ facilitate any future contact between the member of staff and the child/ren/ adult who made the allegation.
- Phased return and/or the provision of a mentor to provide assistance and support in the short term may be appropriate.
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**Substantiated** This is where there is sufficient evidence or information to support the allegation. If the allegation or concern is Substantiated and on conclusion of the case/ investigation the employer dismisses the member of staff, or the member of staff ceases to provide their services, the employer will consult LADO with regards to whether a referral to the Disclosure and Barring services is required. As a provider we must report to the DBS, any person whose services are no longer used because he or she are considered unsuitable to work with children.

Resignations and compromise agreements.

Compromise agreements MUST NOT be used (i.e. where a member of staff agrees to resign provided that disciplinary action is not taken and that a future reference is agreed.).

Record Keeping

A clear and comprehensive summary of any allegation made, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached. 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.

Following completion of the investigation by Ofsted and the LADO there will be five possible courses of action:

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| <b>Criminal</b>     | The Police will decide if there is sufficient evidence to carry forward a prosecution regarding the member of staff.  |
| <b>Disciplinary</b> | Ofsted and the LADO may determine that there is not sufficient evidence to press a criminal conviction, but there may nevertheless be issues which require that disciplinary action is taken via the Setting's disciplinary guidelines. |
| <b>Training</b>     | The investigations may indicate that the allegation was unfounded, but the case may well have shown that there are issues of training and performance amongst staff which need to be dealt with by additional staff training.           |



- Safeguarding Children** There may be other outstanding Safeguarding Children issues which do not involve the member of staff concerned but which Ofsted and LADO deem need to be dealt with via Safeguarding Children procedures.
- **No further action**

Where the allegation has been found to be without basis Ofsted will write to the setting summarising the outcome of the investigation.

### **DBS**

Employers are now obligated by law to inform the DBS (**Disclosure and Barring Service**)

- An individual who is working closely with vulnerable groups has harmed, or may harm, a child or vulnerable adult.
- An individual who might in the future work closely with vulnerable groups has harmed, or may harm, a child or vulnerable adult; or
- they think the DBS may consider it appropriate to bar the individual.

Relevant information should be referred to the DBS as soon as it becomes available.

It is important to ensure that you are satisfied any referral made where the legal duty has not been met complies with relevant legal requirements e.g. the data Protection Act and employment laws.

### **RECORDS**

Where an allegation has been found to be unfounded a summary of the allegation and subsequent investigation should be kept on the Setting's confidential Safeguarding Children file. Where disciplinary action has been taken, however, documents relating to the investigation should be retained, together with a written record of the investigation, on the member of staff's personal and confidential file.

**Ofsted – 0300 123 1231**

**LADO – 0300 300 8142**

**DBS – Referrals help line 01325 953795 / 03000 200 190**