**ALLEGATIONS AGAINST STAFF WORKING WITH CHILDREN**

**POLICY STATEMENT**

The framework for managing allegations against people who work with children is set out in ‘*Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children’.*

It is essential that any allegation of abuse made against a person who works with children and young people, including those who work in a voluntary capacity, 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 aim of the Procedures is to:

* Ensure that allegations are dealt with quickly and in a fair manner
* Prevent unsuitable people from working with children and young people
* Promote safe practise and challenge poor / unsafe practise
* Contribute to effective partnership working
* Improve practise through sharing experience and lessons learned.

This document explains how those procedures should be applied

All references in this document to ‘members of staff’ should be interpreted as meaning all paid or unpaid staff, including volunteers or any seasonal staff.

Managing Allegations Against Staff, Carers or Volunteers.

**The area responsible for implementing these procedures is determined by where the individual, who is the subject of the allegation or concern, works. Should the individual not work at Baby Bears Day Care, then the LADO for the whole**

**area is to be notified.**

**RECOGNISING AND RESPONDING TO AN ALLEGATION**

There are several sources from which a complaint or an allegation might arise including those from:

* A child
* A parent/carer or other adult
* A member of the public
* A colleague (whistle blowing)
* A disciplinary investigation

**INITIAL ACTION BY PERSON RECEIVING OR IDENTIFYING AN ALLEGATION OR CONCERN**

The person to whom an allegation is first reported should treat the matter seriously and keep an open mind. They should **not**:

* Instigate an investigation
* Investigate or ask leading questions if seeking clarification
* Make assumptions or offer alternative explanations
* Promise confidentiality or give assurance that the information will only be shared on a ‘need to know’ basis.

They should:

* Make a written record of the information (where possible in the child’s/adults’ own words), including the time, date and place of incident, persons present and what was said; Sign and date the written record
* Immediately report the matter to the designated Person - Deputy Manager (Hannah Parker) or General Manager (Chelsea Cunningham) in Hannah’s absence or where the designated person is the subject of the allegation, please go to The Director (Judy Cunningham)
* Consider if the child concerned has suffered, or is at risk of suffering, significant harm and if this is the case (or if in any doubt), make a referral to Children’s Social Care (Mash)
* If the concerns arise outside normal office hours, then the referral should be made to the Emergency Duty Team.

**INITIAL ACTION BY THE DESIGNATED PERSON**

When informed of a concern or allegation, the designated person should not investigate the matter or interview the member of staff, child, or any potential witnesses. They should:

* Obtain written details of the concern/allegation, signed and dated by the person receiving the allegation
* Acknowledge receipt of and date the written details
* Record any information about times, dates and location of incident 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
* Report the allegation to the LADO within one working day
* If a child has suffered, or is at risk of suffering, significant harm, ensure that a referral to Children’s Social Care has been made (Mash)

**INITIAL CONSIDERATION BY THE DESIGNATED PERSON AND THE LADO**

There are up to three strands in the consideration of an allegation:

* A police investigation of a possible criminal offence
* Social care enquiries and/or assessment about whether a child is in need of protection or services
* Consideration of an investigation under disciplinary procedures.

The LADO and designated person – Deputy Manager (Hannah Parker) or General Manager (Chelsea Cunningham) should consider whether further details are needed and whether there is evidence or information that establishes that the allegation is false or unfounded. 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 local authority Children’s Social Care, (Mash) and request a strategy meeting is convened.

The Police must be consulted about any case in which a criminal offence may have been

committed. In circumstances where the criteria for a child protection referral is not met, but a Police investigation might be needed, the LADO should immediately inform the Police and convene an initial LADO meeting.

Where there are concerns regarding the conduct or behaviour of an individual which raises concerns about their suitability to work with children, but the threshold criteria for a child protection referral is not met, an initial LADO meeting should be convened. In some circumstances i.e., when the action needed to be taken is evident, a discussion between the relevant parties may be appropriate instead of convening a meeting.

**INFORMING THE PARENT(S) AND/OR CHILD**

Baby Bears Day Care has a responsibility to inform the LADO immediately if an allegation is made. If the parent(s)/carers of the child are not already aware of the allegation, the LADO, in consultation with colleagues in the Police and Social Care, will advise Baby Bears Day Care about when and how to do this. In some circumstances, the parent will need to be told straight away; for example, if the child has been injured or requires medical treatment. The parent(s)/carers, and the child, if sufficiently mature, should be helped to understand the processes involved.

**INFORMING THE REFERRED PERSON**

Baby Bears Day Care should seek advice from the LADO and the Police about how much information should be disclosed to the referred person. Subject to the restrictions on the information that can be shared, Baby Bears Day Care should, as soon as possible, inform the referred person about the nature of the allegation, how enquiries will be conducted and the possible outcome. The referred member of staff should:

* Be treated fairly and honestly and helped to understand the concerns expressed and processes involved
* Be kept informed of the progress and outcome of any investigation and the implications for any disciplinary process
* If suspended, be kept up to date about events in the workplace.

**INFORMING OFSTED**

Ofsted should be informed by Baby Bears Day care of any allegation or concern made against a member of staff. Ofsted should be invited to attend any safeguarding strategy meeting or LADO meeting and kept informed of the progress of the case and the outcome.

**WHISTLE-BLOWING**

All staff should be made aware of the Baby Bears Day Care whistle-blowing policy and feel confident to voice concerns about the actions or attitude of colleagues. If a member of staff believes that a reported allegation or concern is not being dealt with appropriately within the nursery, they should report the matter to the LADO.

**CONFIDENTIALITY**

Every effort should be made to maintain confidentiality and guard against publicity whilst an allegation is being investigated or considered. Information should be restricted to those who have a need to know in order to protect children, facilitate enquiries and manage disciplinary processes. The Police will not provide identifying information to the press or media, until a person is convicted, other than in exceptional circumstances. In such cases, the reasons should be documented, and partner agencies consulted beforehand.

**SUPPORT**

Baby Bears Day Care, together with Children’s Social Care and/or the Police where

involved, should consider the impact upon the child, and provide appropriate support. Liaison between agencies should consider how the child’s needs are addressed.

As soon as practicable after an allegation has been received, the referred member of staff should be advised to contact their union or professional association.

**UNSUBSTANTIATED AND FALSE ALLEGATIONS**

Following the initial LADO Meeting, if an allegation is determined to be unsubstantiated, the LADO should prepare a separate report of the enquiry and forward it to the designated person – Deputy manager ( Hannah Parker) 0r General Manager (Chelsea Cunningham) of Baby Bears Day Care, this is to enable them to consider what further action, if any, should be taken. False allegations are rare but may be an indicator of abuse elsewhere that requires further exploration. If an allegation is demonstrably false the employer, in consultation with the LADO,

should refer the child to Children’s Social Care to determine whether the child is in need of services or might have been abused by someone else.

If it is established that an allegation has been deliberately invented, the Police should be asked to consider whether it might be appropriate to take action against the person responsible.

At the conclusion of a case in which the allegation is unsubstantiated, the employer should review the circumstances of the case to determine whether there are any improvements to be made to the organisation’s procedures or practice to help prevent similar events occurring in the future.

**DISCIPLINARY PROCESS AND INVESTIGATION**

In all cases, the LADO, the designated person – Deputy manager (Hannah Parker) & General Manager (Chelsea Cunningham) should discuss whether an investigation under disciplinary procedures is necessary. 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 Social Care
* The result of any investigation
* The different standard of proof in disciplinary and criminal proceedings.

If formal disciplinary action is not required, the employer should institute any agreed actions arising from the LADO Meeting **within three working days**. If a disciplinary hearing is required and can be held without further investigation, the hearing should be held **within 15 working days.** The timescales detailed will be adhered to wherever possible. However, where there are good reasons, for example the lack of availability of

witnesses, each party can request that the other agrees to an extension of the recommended timescales.

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. The investigating officer should aim to provide a report **within 10 working days.**

On receipt of the report the nursery should decide, **within 2 working days,** whether a

disciplinary hearing is needed. If a hearing is required, it should be held **within 15 working days**. The timescales detailed will be adhered to wherever possible. However, where there are good reasons, for example the lack of availability of the

witnesses, each party can request that the other agrees to an extension of the recommended timescales. If at any stage of the investigation new information emerges that requires a child protection referral, the investigation should be held in abeyance and only resumed, if agreed, with Children’s Social Care and the Police. Consideration should again be given as to whether suspension is appropriate considering the new information.

**SUSPENSION**

The possible risk of harm to children posed by the referred person needs to be evaluated and managed effectively in respect of the children involved, and any other children who may be at risk. In some cases this requires the nursery to consider suspending the member of staff. Suspension is a neutral act and is not

automatic. It should be considered where:

* There is cause to suspect a child/children is at risk of significant harm;
* The allegation warrants investigation by the Police;
* The allegation is so serious that it might be grounds for dismissal;
* There is cause to suspect that the individual has the potential to intimidate a person(s) whom they know or believe to be involved;
* There is cause to suspect that the individual may have the potential to destroy or contaminate evidence related to the investigation;
* Other circumstances particular to the case that warrant suspension.

Managing Allegations Against Staff, Carers or Volunteers

If a strategy meeting is to be held or if Children’s Social Care and/or the Police are to make enquiries, the LADO should canvass their views on the risks posed and inform Baby Bears Day Care. Only Baby Bears Day Care has the power to suspend a referred employee and they cannot be required to do so by a local authority or Police

If a suspended person is to return to work, Baby Bears Day Care should consider what help or support might be appropriate (e.g. a phased return to work, the provision of a mentor), and also how best to manage the member of staff’s contact with the child concerned.

**RESIGNATIONS AND ‘COMPROMISE AGREEMENTS’**

Every effort should be made to reach a conclusion in all cases even if:

* The individual refuses to co-operate, having been given a full opportunity to answer the allegation;
* It may not be possible to apply any disciplinary sanctions if a person’s period of notice expires before the process is complete.

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. A so-called ‘compromise agreement’ 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, must **not** be used. In any event, such an agreement will not prevent a thorough police investigation where appropriate, nor can it override an employer’s statutory duty to make a referral to The Independent Safeguarding Authority.

**RECORD KEEPING**

Baby Bears Day Care should keep a clear and comprehensive summary of the case on a person’s confidential personnel file and give a copy to the individual. The record should include details of:

* Allegations made;
* Details of how the allegation was followed up and resolved;
* Actions taken;
* Decisions reached.

Such information should be retained on file, including for people who leave the organisation, for at least until the person reaches normal retirement age or for ten years if longer. The purpose of the record is to enable accurate information to be given in response to any future request for a reference. It will provide clarification in cases where a future DBS disclosure reveals information from the police that an allegation was made but did not result in a prosecution or conviction. It will also prevent unnecessary re-investigation if, as sometimes happens, allegations resurface

after a period of time.

**ACTIONS ON CONCLUSION OF A CASE**

If the allegation is substantiated and the person is dismissed, or the nursery ceases to use the person’s services, or the person resigns, the LADO should discuss with the Baby Bears Day Care whether a referral should be made to the Independent Safeguarding Authority (ISA) and / or to a regulatory body such as the General Medical Council, General Teaching Council or GSCC. Consideration will then be given as to whether the individual should be barred from, or have conditions imposed

in respect of, working with children. If a referral is to be made, a named person should be identified to make that referral.

If a referral is made, it should be submitted **within 1 month** of the allegation being substantiated.

Baby Bears Day Care and the LADO (Jo Clifford 01908 254300/ [**jo.clifford@milton–keynes.gov.uk**](mailto:jo.clifford@milton–keynes.gov.uk)) should review the circumstances of each case to determine whether there are any improvements to be made to the Organisation’s procedures or practise.

**It is in everyone’s best interest to resolve cases as quickly as possible, consistent with a fair and thorough investigation. Every effort should be made to avoid any unnecessary delay. It is expected that most cases are resolved within one month, although cases which require a criminal prosecution or a complex police investigation are likely to take longer than three months.**