

## **Allegation and Whistleblowing Policy**

### **Allegation in staff's personal lives**

- If an allegation or concern arises about a member of staff outside of their work with children and this may present a risk to the children for whom they are responsible, the general principles in these procedures still apply.
- The strategy discussion should decide whether the concern justifies:
  - Approaching the person's employer, if applicable, for further information, in order to assess the level of risk; and/or
  - Inviting the employer, if applicable, to further strategy discussion about dealing with the possible risk.
- Risk by association: In some cases, an allegation of abuse against someone closely associated with a member of staff e.g. a partner, close relative or other member of a household, may present a risk to children for whom the member of staff is responsible.
- There may be concerns, e.g. that the member of staff may have colluded with the abuser or denied or diminished the seriousness of the situation. In these circumstances consideration should be given to carrying out a risk assessment on the individual who may pose a risk by association, or convening a strategy discussion to consider:
  - the ability and willingness of the member of staff to adequately protect children,
  - whether measures need to be put in place to ensure their protection,
  - Whether the role of the member of staff is compromised.

### **Allegation is a possible disciplinary matter**

- The Local Authority Designated Officer (LADO) and the designated senior manager within the employing agency should discuss whether disciplinary action is appropriate in all cases.
- The designated senior manager should liaise closely with their organisation's Human Resources services, where applicable, to ensure that disciplinary action, if followed, is appropriately implemented.
- Consideration must be given to any potential misconduct or gross misconduct by the accused person and take the following into account:
  - information provided by police or social care,
  - the result of any investigation or trial,
  - the different standard of proof in disciplinary and criminal proceedings.

## **Toy Box Pre-School**

Castle Cary, Somerset

- Consideration should also be given to whether suspension is appropriate. If formal disciplinary action is not required, the designated senior manager/employer should take appropriate action within 3 working days.
- If disciplinary action is not deemed appropriate, but professional advice is considered necessary, the nature and content of this advice should be agreed between the LADO and the employer, taking into account any recommendations that may have been made by the police or social care. This should be actioned within 3 working days of the advice being agreed. The employer should ensure that this is recorded and kept on the accused person's confidential personnel file. A copy should be given to the person concerned. These and all subsequent records are to be kept on file until the person reaches normal retirement age or for 10 years if that is longer.
- If further investigation is needed to decide whether disciplinary action needs to be taken, the designated senior manager and the LADO should discuss whether it may be appropriate for the investigation to be undertaken by an independent person.
- Circumstances where this may be appropriate are where resources may not be available or adequate within the employing agency, where the case is particularly complex or where objectivity needs to be ensured. In any case, the investigation should be completed and reported to the employer within 10 working days.
- The aim of the investigation is to get, as far as possible, a fair, balanced and accurate record in order to consider the appropriateness of disciplinary action and the accused person's suitability to work with children. Its purpose is not to prove or disprove the allegation.
- 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 social care or the police. Consideration may again be given as to whether suspension is appropriate.
- Investigators should be alert to signs of organised or widespread abuse and the involvement of other perpetrators or institutions, as the matter may need to be dealt with in accordance with complex abuse procedures, which will take priority, if applicable.
- When the employer has received the investigation report, a decision as to whether a disciplinary hearing is needed should be made within 2 working days. If that is the case, a hearing should be held within 15 working days.
- In the case of supply, contract and volunteer workers normal disciplinary procedures may not apply. In these circumstances the LADO and employer should act jointly with the providing agency or service, where applicable, in deciding whether to:
  - continue to use the accused person's services, or,
  - provide further opportunities for the accused person to work with children,
  - consider whether to make a referral for consideration of barring; or,
  - take any other action.

## **Toy Box Pre-School**

Castle Cary, Somerset

- Every effort should be made to reach a conclusion in all cases, even if:
  - the accused person refuses to co-operate, having been given a full opportunity to answer the allegation and make representations, or,
  - it may not be possible to apply any disciplinary sanctions if the person resigns and the period of notice expires before the process is completed,
  - the accused person's contract period expires or there is no contract in place and the person leaves of their own accord during the investigation or disciplinary process,

It is not appropriate to draw up compromise agreements which state that the accused person agrees to resign provided that disciplinary action is not taken and future references will make not mention the behaviour that led to the allegation being made.

### **Allegation made or suspicion arisen**

- Everyone who works with children and young people should know who they should go to in their organisation or setting with concerns about the behaviour of, or an allegation against, a colleague or any other adult who works with children. Manager within the organisation. Deputy designated managers (Children's Centre Lead Officer or Early Years Development Worker) should also be identified, in case of the unavailability of, or an allegation being made against, Toy Box Manager.
- If you have a concern that a person may have behaved inappropriately or you have received information that may constitute an allegation you should:
  - report it to toy box Manager as soon as possible, however trivial it may seem;
  - make a signed and dated written record of your concerns, observations or the information you have received to pass on to toy box Manager;
  - maintain confidentiality and guard against publicity while an allegation is being considered or investigated and follow local information sharing protocols
- You should not:
  - attempt to deal with the situation yourself;
  - make assumptions, offer alternative explanations or diminish the seriousness of the behaviour or alleged incidents;
  - keep the information to yourself or promise confidentiality;
  - take any action that might undermine any future investigation or disciplinary procedure, such as interviewing the alleged victim or potential witnesses, or informing the alleged perpetrator or parents or carers.

The same action should be taken if the allegation is about abuse that has taken place in the past, as it will be important to find out if the person is still working with or has access to children

N.B If a child has clearly been injured and/or there is clear evidence of significant harm or risk of significant harm, immediate referral to the police or social care or emergency services must be considered, in accordance with child protection procedures, and your Children's toy box Manager informed as soon as possible afterwards. Remember that the safety and welfare of the child is your overriding concern.

## **Toy Box Pre-School**

Castle Cary, Somerset

If a member of the public has a concern or allegation about a person known or suspected to be working with children, or who has worked with children, the advice above should be followed, but it will be more appropriate to report direct to the LADO, police or social care, as toy box Manager or employer may not be known.

### **Allegation is unsubstantiated**

- The decision as to whether an allegation is false should not be made without prior consultation with the Local Authority Designated Officer (LADO). Whilst some behaviours reported or initially considered as allegations may not fall within the scope of these procedures, wholly falsified allegations by children are rare and may be an indicator of abuse from elsewhere which requires further exploration.
- If an allegation made by a child does prove to be demonstrably false, Toy Box Manager should refer the matter to 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 the allegation has been deliberately invented i.e. is malicious, the LADO should ask the police to consider what action may be appropriate.
- During the initial consideration between the LADO or following an initial police enquiry or strategy meeting it may be concluded that there is insufficient evidence to substantiate an allegation. This decision, together with written confirmation, should be forwarded to the designated senior manager by the chair of the strategy discussion or designated police officer as appropriate, so that the Toy Box Manager can consider what further action, if any, may need to be taken.
- Toy box Manager must ensure that all records are kept on the accused person's confidential personnel file and a copy should be given to the person concerned.
- These and any subsequent records are to be kept on file until the person reaches normal retirement age or for 10 years if that is longer. This is to enable accurate information to be given in response to any future request for a reference and to explain what took place if a future CRB check throws up police details of an allegation that was made that did not result in prosecution or conviction. It will also be relevant if further concerns are raised or allegations made in the future.

### **Allegation made to police or social care**

- In all cases of allegations or serious concerns about staff or volunteers being referred direct to the police or social care teams, the LADO should be informed within 1 working day by the police force's designated officer or relevant social care team manager. This includes all those cases that are reported but do not meet the thresholds for a social care or police investigation. The LADO should either be involved in or kept informed of all stages of any police or social care investigation being conducted under these procedures.

## **Toy Box Pre-School**

Castle Cary, Somerset

- Police forces should identify a designated officer within their Child Protection Unit/ Child Abuse Investigation Team to:
  - liaise with the LADO
  - take part in strategy discussions
  - review the progress of cases in which there is a police investigation
  - share information, as appropriate, on completion of the investigation or any prosecution.
- Toy Box is committed to the highest standards of openness, probity and accountability.
- An important aspect of accountability and transparency is a mechanism to enable staff and other members of toy box to voice concerns in a responsible and effective manner. It is a fundamental term of every contract of employment that an employee will faithfully serve his or her employer and not disclose confidential information about the employers' affairs. Nevertheless, where an individual discovers information which they believe shows serious malpractice or wrongdoing within the organisation then this information should be disclosed internally without fear of reprisal, and there should be arrangements to enable this to be done independently of line management (although in relatively minor instances the line manager would be the appropriate person to be told). The Public Interest Disclosure Act, which came into effect in 1999, gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing certain serious concerns. Toy box has endorsed the provisions set out below so as to ensure that no members of staff should feel at a disadvantage in raising legitimate concerns.
- It should be emphasised that this policy is intended to assist individuals who believe they have discovered malpractice or impropriety. It is not designed to question financial or business decisions taken by the toy box nor should it be used to reconsider any matters which have already been addressed under harassment, complaint, disciplinary or other procedures. Once the "whistleblowing" procedures are in place, it is reasonable to expect staff to use them rather than air their complaints outside toy box.

### **Scope of Policy**

This policy is designed to enable employees of toy box to raise concerns internally and at a high level and to disclose information which the individual believes shows malpractice or impropriety. This policy is intended to cover concerns which are in the public interest and may at least initially be investigated separately but might then lead to the invocation of other procedures e.g. disciplinary.

These concerns could include:

- Financial malpractice or impropriety or fraud
- Failure to comply with a legal obligation or Statutes
- Dangers to Health & Safety or the environment
- Criminal activity
- Improper conduct or unethical behaviour
- Attempts to conceal any of these

**Toy Box Pre-School**  
Castle Cary, Somerset

## **Safeguards**

### **i. Protection**

This policy is designed to offer protection to those employees of the toy box pre-school who disclose such concerns provided the disclosure is made:

- in good faith
- In the reasonable belief of the individual making the disclosure that it tends to show malpractice or impropriety and if they make the disclosure to an appropriate person (see below). It is important to note that no protection from internal disciplinary procedures is offered to those who choose not to use the procedure. In an extreme case malicious or wild allegations could give rise to legal action on the part of the persons complained about.

### **ii. Confidentiality**

we will treat all such disclosures in a confidential and sensitive manner. The identity of the individual making the allegation may be kept confidential so long as it does not hinder or frustrate any investigation. However, the investigation process may reveal the source of the information and the individual making the disclosure may need to provide a statement as part of the evidence required.

### **iii. Anonymous Allegations**

This policy encourages individuals to put their name to any disclosures they make. Concerns expressed anonymously are much less credible, but they may be considered at the discretion of the toy box

In exercising this discretion, the factors to be taken into account will include:

- The seriousness of the issues raised
- The credibility of the concern
- The likelihood of confirming the allegation from attributable sources

### **iv. Untrue Allegations**

If an individual makes an allegation in good faith, which is not confirmed by subsequent investigation, no action will be taken against that individual. In making a disclosure the individual should exercise due care to ensure the accuracy of the information. If, however, an individual makes malicious or vexatious allegations, and particularly if he or she persists with making them, disciplinary action may be taken against that individual.

## **Procedures for Making a Disclosure**

On receipt of a complaint of malpractice, the member of staff who receives and takes note of the complaint, must pass this information as soon as is reasonably possible, to the appropriate designated investigating officer as follows:

- Complaints of malpractice will be investigated by the appropriate Centre Manager/chair unless the complaint is against the Manager or is in any way

## **Toy Box Pre-School**

Castle Cary, Somerset

related to the actions of the Manager. In such cases, the complaint should be passed to the Chair of the Board of Trustees (committee) of the for referral.

- In the case of a complaint, which is any way connected with but not against the Manager, the Chair of the Board of Trustees of toy box will nominate a Senior Manager to act as the alternative investigating officer.
- Complaints against the Chair of the Board of Trustees (committee)of toy box should be passed to the Chairman who will nominate an appropriate investigating officer.
- The complainant has the right to bypass the line management structure and take their complaint direct to the Chairman. The Chairman has the right to refer the complaint back to management if he/she feels that the management without any conflict of interest can more appropriately investigate the complaint.

If there is evidence of criminal activity then the investigating officer should inform the police. Toy box will ensure that any internal investigation does not hinder a formal police investigation.

### **Timescales**

Due to the varied nature of these sorts of complaints, which may involve internal investigators and / or the police, it is not possible to lay down precise timescales for such investigations. The investigating officer should ensure that the investigations are undertaken as quickly as possible without affecting the quality and depth of those investigations.

The investigating officer, should as soon as practically possible, send a written acknowledgement of the concern to the complainant and thereafter report back to them in writing the outcome of the investigation and on the action that is proposed. If the investigation is a prolonged one, the investigating officer should keep the complainant informed, in writing, as to the progress of the investigation and as to when it is likely to be concluded.

All responses to the complainant should be in writing and sent to their home address.

### **Investigating Procedure**

The investigating officer should follow these steps:

- Full details and clarifications of the complaint should be obtained.
- The investigating officer should inform the member of staff against whom the complaint is made as soon as is practically possible. The member of staff will be informed of their right to be accompanied by a trade union or other representative at any future interview or hearing held under the provision of these procedures.
- The investigating officer should consider the involvement of toy box auditors and the Police at this stage and should consult with the Chair of the Board of Trustees of toy box

**Toy Box Pre-School**  
Castle Cary, Somerset

- The allegations should be fully investigated by the investigating officer with the assistance where appropriate, of other individuals / bodies.
  
- A judgement concerning the complaint and validity of the complaint will be made by the investigating officer. This judgement will be detailed in a written report containing the findings of the investigations and reasons for the judgement. The report will be passed to the Chair of the Board of Trustees of toy box or Manager as appropriate.
  
- The Chair of the Board of Trustees of toy box, Manager will decide what action to take. If the complaint is shown to be justified, then they will invoke the disciplinary or other appropriate Company procedures.
  
- The complainant should be kept informed of the progress of the investigations and, if appropriate, of the final outcome.
  
- If appropriate, a copy of the outcomes will be passed to Toy Box Auditors to enable a review of the procedures.

If the complainant is not satisfied that their concern is being properly dealt with by the investigating officer, they have the right to raise it in confidence with the Chair of the Board of Trustees of toy box Manager or one of the designated persons described above.

If the investigation finds the allegations unsubstantiated and all internal procedures have been exhausted, but the complainant is not satisfied with the outcome of the investigation, toy box recognises the lawful rights of employees and ex-employees to make disclosures to prescribed persons (such as the Health and Safety Executive, the Audit Commission, or the utility regulators), or, where justified, elsewhere.

This policy was adopted by Toy Box Pre-School	Date:
Signed on behalf of the management committee	
Name of signatory	
Role of signatory (e.g. chair/owner)	