

Procedure to follow if an allegation of abuse is made against a member of Fennies Nurseries

Safeguarding and welfare requirement 2017

Child protection

3.4. Providers must be alert to any issues of concern in the child's life at home or elsewhere. Providers must have and implement a policy, and procedures, to safeguard children. These should be in line with the guidance and procedures of the relevant Local Safeguarding Children Board (LSCB). The safeguarding policy and procedures must include an explanation of the action to be taken when there are safeguarding concerns about a child and in the event of an allegation being made against a member of staff, and cover the use of mobile phones and cameras in the setting.

This procedure also links to:

- Safeguarding children and child protection policy and procedures
- Fennies managing investigations toolkit
- Fennies disciplinary policy
- Making a complaint procedure
- Fennies Whistleblowing policy
- Making notifications to Ofsted procedure

Always remember - The welfare of the child is paramount!

Please do ensure that urgent medical treatment is sought if required, and that the child is supported.

Policy statement

Unfortunately, child abuse does occasionally take place in child care settings, so we have introduced this separate policy to remind staff of the measures that can be taken to reduce the risk of any allegations being made against them or another member of staff. It also contains the procedure, which will be undertaken if an allegation is made against a member of staff. This complies with both the Early Years Foundation Stage (2017) and Local Safeguarding Children Board Procedures.

This document has been developed in line with local safeguarding child board guidance (Croydon, Merton, Surrey and Bromley), and national guidance which includes:

- Working Together to Safeguard Children (2018)
- Information Sharing: Guidance for Practitioners providing Safeguarding Services (DfE 2018)
- Keeping Children Safe in Education (2018)

How we can protect ourselves?

- If a child sustains an injury whilst in our care, we will record it on an accident form as soon as possible. When the child is collected, we will inform whoever picks the child up about the injury and ensure that they also sign the accident form.
- If a child arrives with an injury sustained elsewhere we will ask for an explanation and again record this in the accident form, noting that it is a pre-existing injury and ask whoever has brought the child in to sign the record.
- We will ensure that all staff undertake regular safeguarding and child protection training.
- We will ensure that all parents understand our role and responsibility in safeguarding child protection. Our safeguarding policy and procedures are available in each nursery our website
- Our behavioural management policy states that no physical sanctions will be used, and we will ensure that everyone complies with it in all rooms within the setting.
- We will try to avoid situations where an adult is left alone in a room with a child. If this does occur, we will make sure that the door is left open and there are other people around. Regular lone working occurrences will be risk assessed.
- We will avoid engaging in rough physical play with children, as this may be misconstrued and could cause accidental injury to a child.
- We will avoid doing things of a personal nature for children that they can do for themselves.
- We will follow our Safer Recruitment Procedure and take up references, including one from the candidate's last employer, and will always question any gaps in employment history.
- We will encourage an open door ethos, to enable staff to talk to senior managers if they have concerns about the conduct of any of their colleagues.
- Regular supervision will provide opportunities for staff to discuss any issues particularly concerning children's development or well-being
- All staff will be made aware of our whistleblowing policy and procedure.
- Following any concerns raised or allegations against staff, the nursery management team will increase the monitoring and support of practice. This may include increased supervision, peer / room observations, mentoring, or training.

Deciding if it is an allegation of harm or a concern

The designated safeguarding lead should review the information available and consideration should be given as to whether the case meets the threshold of harm/risk of harm.

- If it is decided it meets the threshold of harm/risk of harm and therefore is an allegation they should follow the procedures below and notify the LADO within one working day. If appropriate, the police should also be notified within one working day – or immediately if necessary;
- If it is decided that the incident does not meet the threshold of harm/risk of harm and is a concern only, then they should take steps to ensure any conduct or behaviour issues are addressed with the member of staff through normal employment practices;
- If the designated safeguarding lead is unclear whether the incident meets the threshold of harm/risk of harm, they must seek advice from the LADO.

The LADO should be alerted to all cases in which it is alleged 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; or
- Behaved towards a child or children in a way that indicates they may pose a risk of harm to children.

This is referred to as the threshold.

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

If the designated safeguarding lead is unclear whether the incident meets the threshold of harm/risk of harm, they may wish to seek advice from the LADO.

What happens if an allegation of abuse is made against a member of staff in the Setting?

- An allegation or concern raised about a member of staff may arise from a number of sources, for example, a report from a child, a concern raised by another adult in the organisation, or a complaint by a parent. It may also arise in the context of the member of staff and their life outside work or at home.
- The person to whom an allegation or concern is first reported should treat the matter seriously and keep an open mind. They should not:
 - Investigate or ask leading questions;
 - Make assumptions or offer alternative explanations;
 - Promise confidentiality.
- They should:
 - Make a written record of the information on Appendix 1: Checklist for handling and recording allegations or complaints of abuse made against a member of staff (where possible in the child / adult's own words), including the time, date and place of incident/s, persons present and what was said;
 - Sign and date the written record;
 - Immediately report the matter to the designated safeguarding lead, or the deputy in their absence or; where the designated safeguarding lead is the subject of the allegation report to the deputy or other appropriate senior manager (if they do not hold one of those roles).
- Some, very serious allegations, should be immediately reported to the police – this will also enable prompt action to be taken to gather evidence from mobile phones etc.
- If anyone makes an allegation of abuse against a member of our staff, the designated safeguarding lead (*name of designated person*) will be informed immediately and will contact: **(name)** Local Authority Designated Officer (LADO), prior to any further investigation taking place. A failure to report an allegation in accordance with procedures is a potential disciplinary matter
- The Designated safeguarding lead will start a chronology (appendix 2)
- They will assess whether the allegation reaches the threshold for referral to Police/Children's Social Services and advise accordingly regarding further action to be taken in respect of the child and the member of staff.
- The designated safeguarding lead will complete the details on Appendix 1: Checklist for handling and recording allegations or complaints of abuse made against a member of staff.
- The designated safeguarding lead will not discuss the allegation with the member of staff concerned, unless advised to do so by the LADO.
- **All staff need to be aware that it is a disciplinary offence not to report concerns about the conduct of a colleague that could place a child at risk. When in doubt – consult.**
- If Children's Social Services and/or the police decide to carry out an investigation, **it may be possible that we will be advised to suspend the member of staff, whilst enquiries are carried out.** Fennies Nurseries could also invoke their disciplinary procedure.
- A risk assessment for suspension will be carried out to help ascertain the level of risk in relation to whether a child or children are at risk of significant harm; the allegation warrants investigation by the police; the allegation is so serious that dismissal / gross misconduct is possible

- We will not carry out an investigation ourselves **unless** Children’s Social Services and the Police decide it is not necessary for them to do so. We understand that Ofsted may wish to undertake further investigations in some circumstances.
- Whilst we do not investigate the matter unless advised by the LADO we will continue to gather factual information in regard to the incident and ensure any evidence is preserved. This fact-finding should be a neutral process and should not amount to an investigation of the incident:
 - Obtain written details of the concern / allegation, signed and dated by the person receiving it (not the child / adult making the allegation or the alleged person)
 - Approve and date the written details;
 - Record any 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.
 - Deciding if it is an allegation of harm or a concern
 - The designated safeguarding lead should review the information available and consideration should be given as to whether the case meets the threshold of harm/risk of harm

Record keeping

Details of allegations that are found to have been malicious should be removed from personnel records. However, for all other allegations it is important that a clear and comprehensive summary of the allegation, (how it was followed up and resolved, decisions reached, and action taken) is kept on the accused person’s confidential personnel file and a copy given to the individual. It should be kept until the person reaches normal retirement age or for 10 years if longer.

The purpose of the record is to:

- Enable accurate information to be given in response to future reference requests
- Provide clarification where a DBS disclosure reveals an allegation that did not result in a prosecution or a conviction
- Help prevent unnecessary re-investigation if the allegation should resurface

Cases which cross borough boundaries

Cases will often be relevant to more than one local authority. For example, an allegation could be made against a member of agency staff who works across multiple boroughs and whose agency is based in a further borough. Decisions about which LADO should take the lead are complex and should consider the following:

- Which agency holds the greatest risk? For example, if an agency worker has only worked one day in the school where the allegation has taken place and won’t be returning, it might be that the employment agency holds the most risk;
- Where is organisational learning required? For example, an agency worker may have only worked in a school for a day, but if the school did not follow good practice with the worker and this contributed to the incident, the greatest learning might be with the school.

Support

Fennies nurseries, together with Children’s Social Care (CSC) and the police (if they are involved), should consider providing support for children who may have suffered significant harm or who are involved in a case where criminal prosecution is possible.

Parents/carers of the child/ren involved should be:

- Informed of the allegation as soon as possible provided this does not impede the enquiry, disciplinary or investigative processes (they may need to be told straight away e.g. if child injured & requires medical treatment)
- Kept informed about the progress of the case
- Told the outcome where there is no criminal prosecution (including the outcome of any disciplinary process but excluding the deliberations/information used in a hearing)

Children and their parents/carers should:

- Be helped to understand the processes involved
- Told the result of any enquiry or disciplinary process
- Where necessary, be helped to understand the outcomes reached

The accused person should be:

- Treated fairly & honestly & helped to understand the concerns expressed & processes involved
- Kept informed of the progress of the case & the outcome of any investigation and the implications for disciplinary or related processes.
- Provided with appropriate support during the case (via occupational health or employee welfare arrangements where those exist). Be kept informed about developments in the workplace if suspended
- Advised at the outset to contact his/her union or professional association

If a suspended person is to return to work, the employer should consider appropriate help/support e.g. phased return and/or provision of a mentor. Consideration should also be given to how best to manage the person's contact with the child/ren who made the allegation, if still in the workplace.

Outcome of investigations

If the LADO has requested the nursery complete its own investigation, then the following definitions of allegation outcomes should be used once the investigation is completed:

- False: there is sufficient evidence to disprove the allegation
- Malicious: there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive
- Substantiated: there is sufficient evidence to prove the allegation
- Unsubstantiated: this is not the same as a false allegation It means there is insufficient evidence to prove or disprove the allegation; therefore, the term does not imply guilt or innocence

Referral to Disclosure and Barring Service

The EYFS requires us to meet our responsibilities under the Safeguarding Vulnerable Groups Act 2006, which includes a duty to make a referral to the Disclosure and Barring Service where a member of staff is dismissed (or would have been, had the person not left the setting first) because they have harmed a child or put a child at risk of harm.

Guidance for managers

Checklist for handling and recording allegations or complaints of abuse made against a member of staff regarding a child/children in their care.

1. Record the name and position of member of staff against whom the allegation or complaint has been made.
2. Verbal complaints should be backed up in writing by the complainant if appropriate; some may require immediate action that does not allow time for this to happen.
3. It is important to identify who made the complaint and whether it was received first hand or is a concern that is passed on from somebody else. If this is the case it is better that you receive the information first hand. If a parent, carer or a member of staff at the (*name of setting*) makes a complaint against you it must be passed immediately to your line manager.
4. Record the full name, age and date of birth of the child.
5. The address recorded should be the address at which the child lives with the main carer.
6. If there are one or more alleged incidents, be specific as possible about dates and times that they are alleged to have happened.
7. Check the attendance register/ diary of work to see if the child was present/seen on that day and the shift patterns of the staff member involved to see if they were working at that time. This will confirm the likelihood of the incident having taken place.
8. If you have received the complaint in writing attach it to the checklist. You can then summarise it on the form.
9. Any other information should be factual. It will be helpful if you can confirm things such as the level of contact that the staff member has with the child and any other minor concerns that may have been raised previously. **Do not attempt to investigate the complaint yourself unless the LADO has handed back this responsibility to the employer. This includes requesting the completion of witness statements.**
10. Remember that if an allegation of abuse is made against a member of our staff you must inform the designated safeguarding lead who will contact the LADO for further advice.
11. **Ofsted must be informed** of an allegation of harm (as opposed to a concern being raised e.g. a practice or training need) is made against a member of our staff, even if the LADO decides no further action is required. Ofsted may do their own investigation to ensure that registration requirements are being met. This must be done on the same day as the referral to LADO, or soon as is reasonably practicable, but at the latest within 14 days of the allegations being made. A registered provider who, without reasonable excuse, fails to comply with this requirement, commits an offence. Where there is any delay in a notification being made, the notifier must provide an explanation to Ofsted as to why there has been a delay.
12. Make a note of any actions the LADO or Ofsted advise you to take and the date or times at which you implemented them.
13. **If the allegation is against the designated safeguarding lead, then you should go straight to the LADO and follow the procedures above.**

Appendix 1: Checklist for handling and recording allegations or complaints of abuse made against a member of staff regarding a child/children in their care

1. Name and position of staff who is the subject of allegations/complaint:

2. Is the complaint: Written or verbal? (delete as necessary)

3. Complaint made by: _____ Relationship to child _____

4. Name of child _____ Age and date of birth _____

5. Parent's/carers name(s) and address

6. Date of alleged incident/s _____

7. Did the child attend on this/these date/s: _____

8. Nature of complaint (if received in writing see guidance)

9. Other relevant information (continue on a separate sheet if needed):

10. Social Services contacted at (date and time) _____

11. Ofsted contacted at (date and time) _____

12. Further actions advised by Social Services Department and Ofsted

Your name and position _____

Signature _____

Today's date and time _____

Appendix 2 - Chronologies

The importance of understanding concerns for a child in the context of history, time-lines and other known information cannot be underestimated. Chronologies are central to this process and it is strongly recommended that these are completed on an ongoing basis as the case progresses. In addition to aiding assessment, a chronology will serve as an important record of setting actions and when attached to an Inter Agency Referral form can provide evidence for the reason for the referral.

A chronology should list specific and significant incidents, events and actions taken in relation to the child and where appropriate their family, with a brief explanation or cross-reference to the relevant record within the file.

A chronology is most helpfully stored where it can be quickly accessed and viewed. It should be kept up to date. An exemplar follows:

Setting name:	
Date:	
Member of staff:	
Date and time:	Incident / event

Internal use only

This policy was adopted on	Signed on behalf of the nursery	Date disseminated to staff	Date for review
<i>July 2019</i>			<i>July 2020</i>