

Managing Allegations against an Employee Procedure

Outcomes First Group prioritises its safeguarding duties and responsibilities towards children, young people and adults in its care, and all employees, agency staff and contractors.

Outcomes First Group recognises the importance of ensuring that the correct processes are followed as soon as an allegation is made; this supports the investigation process and protects all those involved.

This procedure should be read in conjunction with the Outcomes First Group Safeguarding Policy, Keeping Children Safe in Education, Working Together to Safeguard Children, and the Outcomes First Group disciplinary and grievance policies. It should also be read in conjunction with each setting or provision's Local Authority 'Managing Allegations' procedures and any statutory guidance issued by the devolved governments of the United Kingdom. **Legislation and statutory guidance always supersedes this guidance.**

These procedures are for managing any allegations against employees within the Outcomes First Group where concerns are raised that adults may pose or present a risk, or that they may be behaving in such a way as to pose a risk to children, young people or adults at risk, or that they may be abusing them.

This document outlines the procedures that **must** be adhered to in order to safeguard our children, young people and adults at risk. Any failure to follow this procedure may be dealt with under the Outcomes First Group disciplinary policy.

For the avoidance of doubt, the use of the word 'child' or 'young person' within this document refers to anyone under the age of 18 years; or under 25 if they have a special educational need. This policy also relates to adults in the care of Outcomes First Group.

This policy applies to employees working within fostering agencies in the National Fostering Group. It does not apply to foster carers/parents. Allegations made about foster carers are managed by the specific fostering agency they are registered with and in accordance with the National Fostering Group Managing Allegations, Complaints and Standards of Care Concerns against Foster Carers policy and guidance.

1.1 This procedure should be applied if an employee/s have:

- Behaved in a way that has, or may have, harmed a child, young person and adult at risk;
- Possibly committed a criminal offence against, or related to, a child, young person or adult at risk;
- Behaved towards a child, young person or adult at risk in a way that indicates they may pose a risk of harm;
- Behaved in a way that indicates they are unsuitable to work with children, young people and adults at risk. This can include behaviour in their personal life that raises safeguarding concerns.

- 1.2 The Outcomes First Group takes its responsibilities seriously and will always act in the best interests of children, young people and adults in its care when managing allegations. Outcomes First Group will adhere to legislation and statutory guidance including, but not limited to, The Care Act, Keeping Children Safe in Education, Working Together to Safeguard Children, The Wales Safeguarding Procedures and The Children Act (Scotland) in the context of Getting It Right For Every Child (GIRFEC).
 - 1.3 Relationships and communication with partner agencies must be ones of openness and transparency. Information must always be shared with appropriate partner agencies when allegations have been made. Data protection is not a barrier for sharing safeguarding information.
 - 1.4 If the information received indicates that a possible crime has been committed, this **must** be passed **immediately** to the police, regardless of whether the person making the complaint wishes to formally inform the police.
 - 1.5 The Group Head of Safeguarding and the Human Resources Operations Advisors must have oversight of all allegations made against employees. This means that following initial decision-making and consultation with other agencies, and **within 48 hours** all allegations must be notified to safeguarding@ofgl.co.uk.
 - 1.6 The Senior Leader or Regional Director for the setting in which the allegation has occurred will have full management responsibility for the allegations. The Group Head of Safeguarding will offer support, advice and guidance to Senior Leaders, Regional Directors and the Human Resources Operations Team when managing allegations.
 - 1.7 The relevant Human Resources Business Partner will be responsible for advising on all aspects of Human Resources from a business and employee relations perspective.
 - 1.8 The Group Director of Human Resources, the Group Director of Quality and Outcomes and the appropriate Managing Director will have full oversight of any serious allegations which potentially have significant implications for the safety and wellbeing of children, young people and adults in our care.
 - 1.9 Safeguarding processes and procedures must take precedence over other disciplinary processes. However, it is recognised that there may be occasions when the two processes can run alongside one another. Safeguarding allegations must be investigated first and foremost, prior to any other practice or conduct issues being investigated.
- 2. The procedure**
- 2.1 Within **two hours** of an allegation or concern being raised regarding an employee, this **must** be reported to the line manager(s) with responsibility for the employee(s). If the concern is regarding a line manager, then the person must raise the concern with the named person of the Senior Leadership Team who oversees that manager.

If the concern is regarding a member of the Senior Leadership Team, then the allegation or concern must be reported to the Managing Director of that division or the Group Head of Safeguarding or Director of Quality and Outcomes. All Outcomes First Group employees have access to a confidential and anonymous whistle-blowing facility via SafeCall 0800 915 1571 or email outcomesfirstgroup@safecall.co.uk. Employees are to familiarise themselves with the Outcomes First Group Whistle Blowing policy.

- 2.2** If the allegation or concern relates to a serious incident of harm such as a serious physical assault or sexual assault/abuse or harassment, this **must** be **immediately** referred to the police and the appropriate operational Regional Director. The matter should also be reported to safeguarding@ofgl.co.uk. The Human Resources Operations Advisor will immediately inform the Director of Human Resources, Group Director of Quality and Outcomes and the Managing Director. In cases where there may be possible media attention, the Human Resources Operations Advisor will also inform the Outcomes First Group's Corporate Affairs Director.
- 2.3** All allegations and safeguarding concerns must be reported by the operational senior leader or designated safeguarding lead to the Local Authority or their Designated Officer (LADO) or the Health and Social Care Trust **on the same working day**. Where a concern is raised and it is unclear whether it is an allegation of harm, the operational leader should consult with the Local Authority or LADO and/or seek advice from their immediate line manager. If the matter occurs outside of general office hours, it is best practice to inform the Local Authority, Health and Social Care Trust or LADO via e-mail where possible.
- 2.4** For settings and agencies outside of England and for adult services where the legislation does not provide for the role of the Local Authority Designated Officer (LADO); please follow the appropriate procedures outlined in legislative and statutory guidance to inform local authorities and other professionals. It is the responsibility of the Head teacher or Registered Manager to ensure that they are familiar with, and act in accordance with, the Local Authority Safeguarding Procedures as detailed on the Local Safeguarding Partnership website for that area. Compliance with Local Safeguarding Procedures must always take priority. Residential and fostering services must notify Ofsted, Care Quality Commission, Care Inspectorate Wales or Care Inspectorate Scotland or any other equivalent regulatory body of all allegations made against employees, contractors or volunteers.
- 2.5** At the earliest possible stage, the operational safeguarding decision-maker should consider the following:
- The safety and welfare of the child, young person or adult at risk involved, and consider any support which may be required;
 - What support may be required for the employee/s who have made the allegation and any other employees involved;
 - What support may be required for the employee/s about whom the allegation is made;
 - Whether the employee can be maintained in their role safely during the investigation. In cases where there is police involvement or a likelihood of a

police investigation, consider whether the employee should be suspended without prejudice, pending an investigation.

- 2.6** When considering suspension, it is important to consider the possible risk of harm to other children, young people or adults at risk who Outcomes First Group are responsible for; as well as safeguarding the employee/s, about whom an allegation has been made. Consideration must be given as to whether it is safe for the employee/s to have continued access to children, young people or adults at risk, and whether the potential risk can be managed. Consideration must be given to all statutory guidance such as The Care Act, Keeping Children Safe in Education, Working Together to Safeguard Children, The Wales Safeguarding Procedures and The Children Act (Scotland) in the context of Getting It Right For Every Child (GIRFEC).
- 2.7** If the allegation or safeguarding concern relates to a serious incident of harm such as a serious physical assault, physical abuse, sexual assault, sexual harassment or sexual abuse, the employee must be suspended without prejudice, pending further investigation in line with the disciplinary procedure.
- 2.8** The decision to suspend an employee must be approved by the appropriate Regional Director who will inform the Human Resources Operations Advisors. The Group Director of Quality and Outcomes, the relevant Managing Director and the Group Director of Human Resources will be notified of all suspensions. A welfare officer will be appointed to retain contact with the employee(s) during suspension. Please refer to the welfare support guidance available by contacting your Human Resources business partner or the Human Resources Operations Advisors.
- 2.9** The Human Resources Operations Advisor will liaise with the Information Technology department to ensure that all electronic devices and access to emails are locked. Where necessary, arrangements will be made for any electronic devices to be returned during the suspension period. This includes work laptops, computers, mobile phones and any other device provided.
- 2.10** If a decision is taken that the employee(s) can remain in their place of work safely, a risk assessment must be completed on the same working day as the allegation is made. Please refer to the group Allegations Risk Assessment template for more guidance if required. (See appendix iii)
- 2.11** Initial fact finding may be carried out unless it is a serious safeguarding concern in which case the police are to be notified immediately. However, when fact finding, the safeguarding concern or allegation must not be shared with any employee(s) at this stage. The Group Head of Safeguarding and the Human Resources Operations Advisor will provide advice and guidance as to how to undertake the fact find if required.
- 2.12** All placing authorities and families (where appropriate) must be notified of any allegations within **one working day**. It is the responsibility of the line manager of the employee(s), about whom an allegation is made, to ensure that placing authorities

and families are updated as to the allegation and subsequent investigation, including feeding back the outcome of any investigation.

2.13 Within 48 hours of the allegation being made, the following information should be forwarded to safeguarding@ofgl.co.uk.

- The original incident report or record made of the disclosure, allegation, concern or complaint.
- A copy of the referral form or correspondence with LADO or the Local Authority or the Health and Social Care Trust including details of their decision-making if available.
- The risk assessment that has been put in place or confirmation of suspension (With Regional Director approval only)
- The proposed Investigating Officer (if known)
- Any other information or areas that you require advice/guidance on.

2.14 It is the responsibility of the operational senior leader receiving the allegation or safeguarding concern to ensure that they provide weekly updates to the Group Head of Safeguarding and the Human Resources Operations Advisors via email to safeguarding@ofgl.co.uk.

2.15 It is the responsibility of the operational senior leader to frequently check the progress of the matter with the police or other investigating bodies, in order to monitor the length of time an employee is suspended.

2.16 At any stage during the process the operational senior leader can seek advice and guidance from their Regional Director, the Group Head of Safeguarding and the Human Resources Operations Advisor. It may be appropriate for any party to convene an urgent conference call to discuss the actions that need to be taken and to make decisions in a timely manner.

3.0 What happens next?

3.1 In instances where the police have been informed of a safeguarding concern or allegation, all other processes such as disciplinary processes, should cease until the police state that they have finished their own investigation. All attempts must be made to fully cooperate with any police investigation. Communication must be open and transparent, with information being fully shared so as to support the police in their duty to investigate. Line managers must maintain regular contact with the police in order to check on progress and where possible, reduce the length of time an employee is suspended. Written confirmation must be received from the police after their investigation has finished and prior to any internal investigation starting. If an employee has breached procedures in any other manner which is not a safeguarding concern, the line manager can discuss whether an investigation into this can take place separately from the safeguarding investigation.

3.2 Where the LADO or Local Authority or Health and Social Care Trust has stated that an external investigation is to be carried out by either or both the police and Local

Authority or Health and Social Care Trust, no other investigations must be carried out. It is the Operational Manager's responsibility to ensure that they fully cooperate and support the police and/or Local Authorities with their investigations.

- 3.3** Where the LADO, Local Authority or Health and Social Care Trust states that an internal investigation can be carried out, this should be confirmed in writing. The operational senior leader or Designated Safeguarding Lead should e-mail safeguarding@ofgl.co.uk to provide all of the above information detailed in **2.14**. The Group Head of Safeguarding and/or the Human Resources Operations Advisor will review the actions taken and agreement will be made as to who will be appointed to investigate the safeguarding concern or allegation.
- 3.4** Investigations into allegations and concerns should be independent and rigorous. Where possible, it is best practice for an independent employee outside of the immediate service where the allegation has been made, to complete the investigation. It is recognised that there may be circumstances where a person internal to the service has completed an initial fact finding exercise and could continue to investigate in an objective manner. In this event the person must have completed the appropriate Employee Relations training. They must not have a pre-existing relationship with the employee(s) under investigation, that could call into question their ability to remain objective. The Human Resources Operations Advisor will provide advice if required and will approve the proposed investigating officer.
- 3.5** It is the responsibility of the person completing the investigation to refer any other safeguarding information which arises within the investigation to the LADO, Local Authority or Health and Social Care Trust.
- 3.7** Investigations must include: interviewing the employee about whom the safeguarding concern or allegation relates to, interviewing key witnesses (children, young people and adults), reading any relevant documentation, visiting sites or areas of interest and ensuring that the procedure and process regarding disciplinary is adhered to including the completion of an investigation report.
- 3.9** Investigations must be written onto the Outcomes First Group's investigation template (see appendix iv). Conclusions and recommendations must be made based on the factual evidence collated as part of the investigation. The investigation report must make a recommendation as to whether there is a case to answer and whether it will progress to a disciplinary hearing. Investigation reports can make recommendations regarding changes to processes or further management review(s) required. It is the responsibility of the disciplining officer and their HR support to inform the Senior Leader of the setting or Regional Director of the outcome.
- 3.10** The investigator must provide weekly updates as they investigate to safeguarding@ofgl.co.uk. The Investigating Officer should submit the completed draft investigation report to their immediate line manager who will quality assure the document and consider the quality of the report in terms of adherence to the template and clarity of the information included.
- 3.11** Following operational quality assurance, the investigation report must be submitted to safeguarding@ofgl.co.uk. The Group Head of Safeguarding and the Human

Resources Employee Relations Manager will review the report and the findings and will respond to confirm that the matter will proceed to the next stage of the process.

- 3.11 The outcome of the investigation must be communicated to the LADO, Local Authority or Health and Social Care Trust and the placing authority or family (if appropriate) within **one working day** of the investigation being completed and quality assured by the Operational Senior Leader, the Group Head of Safeguarding and the Human Resources Operations Advisor.
- 3.12 If the LADO, Local Authority or Health and Social Care Trust states that there is no further action from their perspective, the matter must still be investigated. If during the course of the fact finding, it becomes apparent that there are no concerns, the investigating officer must complete the report and ensure the full process is followed.
- 3.13 If the employee resigns prior to the end of the investigation and disciplinary process, the process must still be followed including convening a disciplinary meeting and ensuring that any actions such as referrals to the Disclosure and Barring Service and/or appropriate professional registration bodies are completed. Compromise dismissals will not occur when there are safeguarding concerns or allegations.
- 3.14 All allegations and investigations will be monitored by the Group Head of Safeguarding and the Human Resources Operations Advisors. The Group Director of Quality and Outcomes will have oversight of the most serious allegations through a monthly monitoring report.

4.0 Referrals to the Disclosure and Barring Service (DBS)

- 4.1 If an employee is dismissed from employment due to a safeguarding concern or allegation, a referral to the Disclosure and Barring Service or relevant government body in Scotland or Northern Ireland must be made. **It is an offence not to make a referral to the Disclosure and Barring Service in England and Wales.**
- 4.2 If a DBS referral is made, at the point of completion Outcomes First Group managers must notify the Group Head of Safeguarding and the Human Resources Operations Advisor of the referral and any other possible referrals to any relevant professional body in the United Kingdom, relating to the allegation made.
- 4.3 All professional conduct issues which may require a referral to a professional body, whether they relate to safeguarding children or not, must be given full consideration by the Senior Leader of the setting, the Group Head of Safeguarding and the Human Resources Operations Advisor. The Group Head of Safeguarding is responsible for auditing that this process has been conducted appropriately on a monthly basis. A report outlining all dismissals and subsequent referrals should be sent to the Group Director of Quality and Outcomes and Group Director of Human Resources.
- 4.4 Where there is conflict in decision-making between the Group Head of Safeguarding and the Senior Leader of the setting or if there are any complex situations, the circumstances can be referred to the Safeguarding Sub-Committee.

- 4.5** The Safeguarding Sub-Committee will then support the decision-making process to refer an employee to DBS and/or a professional body, and make it clear who is responsible for the submission of any relevant documentation. This will normally be delegated to a senior manager within the division.
- 4.6** All records relating to the investigation, disciplinary process, appeal and subsequent referrals to the DBS and/or professional body must be shared with the Human Resources Operations Advisor, who will ensure they are stored securely. All information must be retained on employees' personnel files.
- 5.0 Referrals to other external bodies**
- 5.1 Some employees hold professional registration with other external bodies. It may be appropriate to refer an employee who is subject to an investigation into their conduct to an external body at the start of the process, during the process or when it has concluded.
- 5.2 Registered managers, senior leaders, Headteachers and principals must familiarise themselves with any professional registrations held by their employees and ensure that they are clear on the individual 'fitness to practice' processes that apply to that particular professional body, the threshold within which to refer and at what stage they require referral. The following information is not exhaustive but provides a general overview of registered professionals in Outcomes First Group.
- 5.3 Social Workers in England hold professional registration with Social Work England. In Wales, Social Workers and Social Care professionals, which includes employees who work in residential care settings, are required to register with Social Care Wales. In Scotland, registration for similar roles is required with the Scottish Social Services Council. In Northern Ireland, Social Workers are registered with The Northern Ireland Social Care Council (NISCC). Leaders must have due regard to the information sharing and referral requirements of any organisations relevant to their setting.
- 5.4 Registered Managers of social care settings are registered with Ofsted, CQC, Social Care Wales or Scottish Social Services Council. Formal notification must be made in the event of any allegation against a registered manager and if suspension has been necessary we should be informing the relevant regulatory body of the arrangements to ensure that safe and effective care of the children or adults in the home continues while the matter is investigated.
- 5.5 Education leaders and teachers are registered with the Teaching Regulation Authority (England and Wales) or the General Teaching Council for Scotland. Healthcare professionals usually hold registration with the Nursing and Midwifery Council, or the Health Care Professions Council. Doctors are registered with the General Medical Council. There are a variety of organisations that counselling and therapeutic practitioners can be registered with, including the British Association for Counselling and Psychotherapy or the National Counselling Society.

6.0 Learning from Allegations and Concerns

- 6.1 The Investigating Officer will identify any individual, local or national learning from the incident or allegation. This will be clearly outlined in the investigation report. On submission to safeguarding@ofgl.co.uk the Group Head of Safeguarding may identify and communicate further points for learning. The report will be shared with the Principal, Head teacher or Registered Manager by the Investigating Officer.
- 6.2 The Operational Senior Leader should implement local and individual learning **within 7 days**. The Group Head of Safeguarding will ensure that any national learning is communicated and implemented **within 14 days**.

7.0 Complaints

- 7.1 Outcomes First Group recognises that it can be a distressing time for employees who have had allegations made against them. Support will be provided which will include weekly welfare calls. However, the appointed welfare officer must not share details of the investigation without express consent. Employees can access a counselling service to provide them with further support. See the Guide to dealing with allegations and safeguarding concerns for full details.
- 7.2 All efforts must be made to ensure that rigorous timescales for the completion of investigations are adhered to.
- 7.3 If an employee is unhappy with the way in which a safeguarding concern or allegation is being managed or investigated, they are able to complain to the investigating officer. Outcomes First Group also operates a system whereby employees are able to whistle blow anonymously if they have concerns via Safecall 0800 915 1571 or via email outcomesfirst@safecall.co.uk.

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