

Section 2: Diocesan Allegations Policy

It is important that there is a clear procedure for dealing with Safeguarding allegations made against any person within the context of church life. In other words, procedures must not be improvised.

This policy spells out the procedure in detail. It is summarised in the flowchart at the end.

At the first stage, any allegation must be reported to the diocesan secretary or (if unavailable) the relevant archdeacon. The person who makes that report must not begin an investigation, because that could make the work of official agencies more difficult or even impossible.

This policy refers to 'employees'. That is for the convenience of using a single term to cover all instances. In the area of Safeguarding, the law and good practice make no distinction between paid employees, volunteers and office holders, ordained and lay people. In this policy, 'employees' includes all those.

If suspension or dismissal is necessary, the relevant authority will need to take that action in each case. For someone working within a parish, that authority is likely to be the incumbent and churchwardens on behalf of the PCC. For diocesan employees, it will be the diocesan secretary on behalf of the DBF. For clergy, the archbishop and archdeacons will need to act within the terms of the Clergy Discipline Measure. Failure to take any necessary action is itself potentially dangerous, and in the most extreme instances may place individuals at risk, as well as exposing the church to a loss of public confidence.

Remember that the first point of contact must be the diocesan secretary or your archdeacon.

Principles

1. The framework for managing cases set out in these procedures applies to a wider range of allegations than those in which there is reasonable cause to suspect a child is suffering, or is likely to suffer, significant harm. It also caters for cases of allegations that might indicate that a person is unsuitable to continue to work with children in their present position, or in any capacity. These procedures should therefore be used in respect of 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 s/he is unsuitable to work with children
2. These procedures apply to situations where there are allegations or concerns relating to any person, who works with children either in a paid or unpaid capacity, behaviour or conduct towards children:
 - Where the concerns relate to issues arising from their employment
 - Where the concerns relate to issues arising from activities, either in a paid or unpaid capacity, outside of their normal employment
 - Where the concerns relate to issues arising from a person's family or social life
 - Where the concerns relate to issues arising from previous employment or activities.

3. These principles underpin the management of allegations against any one who works in a paid or unpaid capacity within the church or diocese:
 - The welfare of the child is the paramount consideration.
 - The Named Senior Officer (NSO) for York Diocese is the Diocesan Secretary. He is responsible for ensuring compliance with policies and procedures relating to allegations against staff
 - York Diocese has designated the Archdeacons as the senior managing officers (SMO) who will be informed of all allegations against staff and who will notify the Local Authority Designated Officer (LADO) of all allegations against staff and volunteers.
 - Those subject to allegations or concerns in respect of children should be informed of those concerns as soon as possible, but with due regard to protecting evidence and disclosure of information, and ONLY after the agreement of the LADO that they be informed.
 - It is not the responsibility of the recipient of the allegation to determine its validity; failure to report an allegation could result in disciplinary action.
 - A decision to suspend staff members or volunteers will rest with the employing organisation/charity in discussion with the LADO and York Diocese SMO, and should be based on the decision of the strategy discussion (where held) that children are at risk, or the investigation would be impeded, or that the alleged behaviour is so serious that the member of staff or volunteer faces the possibility of dismissal. Suspension in these circumstances should be seen as neutral action.
 - A child protection and / or police investigation must take priority over any internal investigation.
 - In the interests of the young person making the allegation and to avoid further interviews, wherever possible the Police or social services statements/records should be requested to inform an internal enquiry.

Roles

4. Working Together to Safeguard Children 2006 introduced three new roles to ensure allegations against professionals and volunteers are managed effectively:

Local Authority Designated Officer (LADO)

5. The LADO provides an oversight of individual cases: providing advice and guidance to employers and voluntary organisations; liaising with the police and other agencies, and monitoring the progress of cases to ensure that they are dealt with as quickly as possible consistent with a thorough and fair process.
6. All allegations against childcare professionals and volunteers should be notified to the LADO and it is therefore important that the relevant LADO's contact details are known.
7. The LADO's responsibilities include:
 - Management and overview of individual cases from all partner agencies of the Local Safeguarding Children's Board (LSCB)
 - Providing advice, information and guidance to Senior Managing Officer (organisations) (SMOs)
 - Monitoring progress of cases to ensure all cases are dealt with within set timescales as set out in Working Together to Safeguard Children 2010
 - Ensuring a consistent and thorough process for all adults working with children and young people against whom allegations are made
 - Liaising with Police and Social Care where further action on their part may be required

- Responsibility for maintaining information databases in relation to all allegations and producing qualitative and quantitative reports for LSCB's and DfES
- Attendance at strategy meetings and liaising with chairs of strategy meetings
- Contributing to LSCB training and awareness raising
- Providing assistance to agencies in the discussion of suspension (the power to suspend is vested in the employer alone)
- Liaison with Crown Prosecution Service
- Discussing with the SMOs about the need for referral to the Protection of Children Act or to the accused persons regulatory body
- Coordinate, collect and maintain appropriate data

Named Senior Officer (NSO)

8. The named senior officer has overall responsibility for; ensuring that York Diocese operates procedures for dealing with allegations in accordance with the guidance in Working Together 2010 (Appendix 5); resolving any interagency issues; and liaising with the LSCB on the subject.
9. The NSO's responsibilities include:
 - Ensuring that the organisation complies with the standards identified and agreed by the LSCB for managing allegations and employing and maintaining a safe workforce.
 - Ensuring that LSCB procedures for managing allegations are reflected and implemented within agency procedures
 - Ensuring that the workforce is aware of and uses the procedures in relation to the allegations against adults working with or on behalf children,
 - Ensuring that the organisation has in place systems for reviewing cases and identifying and implementing any changes require improving procedures and practice.
 - Resolving any inter-agency issues which affect the implementation of LSCB procedures
 - Ensuring that the identify and key roles of NSO, LADO and senior manager (organisations) are reflected in agency policy and procedures
 - Ensure effective recording and reporting arrangements are in place.

Senior Manager within the Organisation (SMO)

10. The senior manager within the organisation has overall responsibility for ensuring procedures are followed at an operational level. This person may be, or may represent, the employer
11. The SMO's responsibilities include:
 - Ensuring that LSCB procedures properly applied and implemented
 - Providing advice, information and guidance for staff within the organisation
 - Being the senior manager within the organisation to whom all allegations or concerns are reported
 - Clarify information regarding details of specific allegations
 - Gather any additional information which may have a bearing on the allegation e.g. previous known concerns, care and control incidents, etc
 - Liaise with LADO where allegations against staff or volunteers are made
 - Providing the subject of the allegation with information and advise them to inform their union or professional body in accordance with LADO advice
 - Requesting advice from Social Care should the allegation be unfounded as the child young person may be in need of services themselves or the police

may need to be involved if allegation deemed to be deliberately malicious or invented

- Attend Strategy meetings where required
- Liaise with LADO and HR where employers disciplinary action required
- Ensuring that risk assessments are undertaken as and when required
- Ensuring that effective reporting and recording systems are in place which allow for the tracking of allegations through to the final outcome
- Undertaking appropriate checks with data the agency may hold
- Providing reports and information as required by NSO
- Raising awareness of the need to empower children and young people who are in vulnerable positions by ensuring their agencies produce good whistle blowing and complaints procedures for all children.
- Ensuring appropriate and relevant training programmes are in place for staff
- Ensuring that relevant support programmes are in place for staff, parents, and young people

Procedure

12. Any member of staff or volunteer, who receives an allegation or concern relating to a child made against another member of staff, must immediately inform the Parish Child Protection Advisor, who will immediately inform the York Diocese Senior Manager within the Organisation (SMO). Failure to act on information or a concern may result in disciplinary action.
13. An allegation or concern should be reported to the SMO when a child has suffered or is likely to suffer harm from:
 - Abuse *or*
 - Actions, which a reasonable person could foresee, may result in harm (i.e. the person acted recklessly) *or*
 - The failure to provide an appropriate response to safeguard a child from harm (i.e. failure to protect or provide appropriate assistance) *or*
 - Failure to follow a procedure or policy which, resulted or, was likely to result in harm to a child
14. Details of the allegation or concern should be recorded (and securely retained) as soon as possible after the event occurred. All subsequent events, discussions and decisions should be recorded and passed to the SMO.
15. Where the SMO is uncertain as to whether a referral should be made to Children's Social Care, advice should be sought from the LADO prior to making a referral to Children's Social Care.
16. The SMO will immediately refer the allegation or concern to the relevant Local Authority Designated Officer (LADO).
17. York Diocese Named Senior Officer (NSO) should be notified of all allegations against staff irrespective of whether the allegation or concern relates to an employee of York Diocese or Parishes within the Diocese. The NSO will seek advice as necessary from the York Diocese Child Protection Advisor.
18. Where the concerns relate to the SMO the information should be discussed directly with the NSO at York Diocese.
19. The responsibility to investigate concerns and allegations against staff rests with social services and the police. Enquiries under s.47 Children Act 1989 and criminal enquiries always take precedence over internal and disciplinary investigations.

20. Under no circumstances should the concern or allegation be discussed or raised with accused person. Where the concern relates to a situation, which is alleged, occurred to a parishioner on child of parishioner or is within the person's professional duties, limited enquiries may be made by the SMO to establish the validity of the allegation. However, such enquiries should be limited to establishing, where possible, the person or alleged victim's whereabouts when the incident was alleged to have occurred.
21. Where an allegations has been direct made by a child or young person (i.e. below the age of 18 years) the child (where appropriate) or young person, and their parents or carers, should be advised of the intention to refer to the LADO and their views and co-operation sought, unless there is reason to believe that doing so may place the child at increased risk of significant harm or impede an investigation.
22. All allegations and concerns should be referred to the relevant LADO by the SMO within the same working day. Where it is considered that the allegation or concern is serious² and requiring an immediate response the matter should be referred to Children's Social Care or the police in line with the York Diocese Child Protection Procedures.
23. Following the making of a referral to the LADO a Strategy Discussion / Meeting will be held. The relevant SMO will usually be invited to attend in order to share information and inform internal processes. Any decision to suspend a member of staff or volunteer should be informed by the Strategy Meeting.
24. Investigations into allegations against members of staff should adopt the approach recommended by Working Together to Safeguard Children (2010), where child protection enquiries, a police investigation and disciplinary processes are considered as related though independent strands. The fact that a prosecution is not possible does not mean that disciplinary action is not necessary or feasible. Evidence of an employees conduct should be considered using the test that an event was happened 'on the balance of probability'.

Action resulting from disciplinary processes

25. Investigations into allegations against members of staff may result in one of four possible outcomes:
 - It has been proved conclusively, or on the balance of probability, that a person did not commit the alleged act, and was not culpable either through their actions or behaviour for the allegation having been made, *or*,
 - It has been proved on the balance of probability that a person did not commit the alleged act, but acted unprofessionally or irresponsibly, and was culpable for the allegation having been made, *or*,
 - The investigations were inconclusive and concerns continue to exist, *or*,
 - The person has been found to have committed the act by a criminal court or in the conclusion of a child protection investigation.

² *An allegation or concern should be regarded as serious where:*

- *It is believed a child has suffered significant harm*
- *Is likely to suffer significant harm*
- *Any delay would compound the risk to the child*
- *Where a delay may act to impede an investigation.*

26. In all cases a record of the concern along with the outcome should be placed on the persons personnel file, if they have one, & if not a record of the concerns & outcome should always be sent to the Diocese Child Protection Advisor to hold on file.
27. Where it is found that a person did not commit the alleged act or that there are no grounds for concern and they were not culpable, the person should be notified in writing of the decision and no further action should be taken with a copy placed on the persons personnel file if they have one, & if not a record of the concerns & outcome should always be sent to the Diocese Child Protection Advisor to hold on file.
28. Where it is found that a person did not commit the alleged act although was culpable for the allegation having been made, the person should be notified in writing of the decision and consideration given to the degree of culpability. Where it is felt that a person's actions were irresponsible or negligent, disciplinary action should be considered. In less serious situations an action plan should be devised to address the issues raised.
29. Where investigations are inconclusive, consideration should be given to the commissioning of an independent assessment, for the purpose of assessing the risk posed to young people. If it is assessed that a person poses a risk to young people the outcome of the assessment should be presented to a disciplinary hearing.
30. In all cases where a person has been found to have committed the alleged act, disciplinary proceedings should be instigated.

Action following a person's dismissal

31. The following guidance relates to a person who has been dismissed for misconduct, or has resigned or retired prior to the findings of a disciplinary hearing (taken from the Protection of Children Act Guidance 1999)
32. The Protection of Children Act sets out the circumstances where a childcare organisation **must**, and other organisations **may**, refer names to the Secretary for State for consideration of inclusion in the Protection of Children Act List. These are:
 - 32.1 That the organisation has dismissed the individual on the grounds of misconduct (whether or not in the course of his employment) which harmed a child or placed a child at risk of harm;
 - 32.2 That the individual has resigned or retired in circumstances such that the organisation would have dismissed him, or would have considered dismissing him, on such grounds if he had not resigned or retired;
 - 32.3 That the organisation has, on such grounds, transferred the individual to a position within the organisation which is not a child care position;
 - 32.4 That the organisation has, on such grounds, suspended the individual or provisionally transferred him to such a position as in (c) above, but has not yet decided whether to dismiss him or to confirm the transfer.
33. Additionally and very importantly, childcare organisations and other organisations may refer names to the Secretary of State in other circumstances. This would be where they have dismissed an individual, he has resigned, retired or has transferred to a position within the organisation which is not a child care position and where information not available to the organisation at the time has since become available. On the basis of that information the organisation has formed the opinion that, had the information been available at the time and if (where applicable) the individual had not resigned or retired, the organisation **would have, or would have considered** dismissing him on the grounds of misconduct, which harmed a child or placed a child at risk of harm.

34. **“Would have dismissed”** This covers the situation where an individual has engaged in misconduct which satisfied the criteria for referral (i.e. misconduct which harmed a child or placed a child at risk of harm), and has possibly been suspended or moved whilst the matter is investigated by the employer. As a result of the employer’s investigation (and possibly a disciplinary hearing) the employer **is satisfied that the individual has carried out the misconduct and as a result should be dismissed or moved to a non-childcare post**. However, before this decision can be communicated to the individual he resigns/retires. The point here is that the employer **has come to the conclusion that dismissal was appropriate in the circumstances**. The employer can only come to this conclusion because he has completed his enquiry into the allegations.
35. **“Would have considered dismissing”**. This type of referral will be where an allegation has come to light, which satisfies the criteria. However, before the employer has had the opportunity to complete his investigation the individual retires/resigns. Until the employer has completed his investigation he cannot conclude, with any degree of certainty that he would have dismissed. Whilst the employer should undertake all investigations open to him it may not be possible to conclude all enquiries. For example, if a child made an allegation of abuse the employer would need to interview the child and seek any corroborating evidence from any independent sources. He should also attempt to obtain the individual’s comments on the allegations. In the circumstances where the employer has only been able to obtain one side of the story (for example where it has not been possible to get the individual’s comments), it is difficult for him to conclude that he would have dismissed the individual. He could only realistically conclude that he **would have considered dismissing** the individual. Employers could only come to that conclusion bearing in mind the nature of the allegations made; dismissal would have been a serious possibility – i.e. within the range of reasonable options.
36. It is important here for all employers to note that referrals are not required when dismissal of the individual was **not a serious option**. For example, when it would only have been a passing consideration within the range of possible options but not a real possibility. If a referral was made in such circumstances the Secretary of State would take the matter no further on the basis that it would not be appropriate for the individual to be included on the List. Misconduct after the individual left his position is never relevant for this purpose; because once he had left the post he could not have been dismissed.

Record Keeping:

37. It is important that employers & York Diocese keep a clear and comprehensive summary of any allegations made, details of how the allegation was followed up and resolved, and details of any action taken and decisions reached, on a person’s confidential personnel file and give a copy to the individual. If the person concerned does not have a personnel file then a record of the concerns should always be sent to the Diocese Child Protection Advisor to hold on file.
38. Such information should be retained on file, including for people who leave the organisation, at least until the person reaches normal retirement age or for 10 years if that will be longer.
39. 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 CRB Disclosure reveals information from the police that an allegation was made but did not result in a prosecution or a conviction. And it will prevent unnecessary re-investigation if, as sometimes happens, allegations re-surface after a period of time.

Responding to allegations against staff flowchart

