

Framework for reporting Allegations Against paid or unpaid Staff and Volunteers working with an adult with care and support needs

Scope

This procedure provides a framework for all agencies working in Oxfordshire when managing allegations against staff or volunteers. The scope of this interagency procedure is not limited to allegations involving significant harm or risk of significant harm to an adult with care and support needs.

This procedure is applicable when there is an allegation or concern that a person who works with adults with care and support needs, has:

- Behaved in a way that has harmed or may have harmed an adult with care and support needs;
- Possibly committed a criminal offence against or related to an adult with care and support needs;
- Behaved in a way that indicates that he or she may pose a risk of harm to adults with care and support needs.
- Behaved in a way that indicates that the person is unsuitable to work with adults with care and support needs. The allegations may relate to the care worker's behaviour at work, at home or in another setting.

Initial considerations and response to allegations

The Threshold of Needs document on the OSAB web page will inform the employer's decision about allegations that should be notified to the Adults Safeguarding Team (AST). The AST can be contacted for guidance where there would be a benefit in having an informal discussion about the situation.

The Police or Adult Safeguarding Team may inform an employer if the employment includes contact with an adult with care and support needs.

Responding to Allegations

All organisations which provide services to adults with care and support needs or provide staff or volunteers to work with or care for adults with care and support needs, will have an organisational procedure that reflects the framework in this procedure.

Where allegations are made, the employer will also consider the following:

- Possible criminal offence requiring police investigation
- Possible disciplinary action in respect of the individual involved

Recommendations for employers

- A Senior Manager should be made responsible for coordinating the response to any allegation.
- Serious allegations should be referred immediately to the Adult Safeguarding Team and possibly the Police on Tel: 101. The police may wish evidence to be preserved so must be inform.
- When a possible crime has been committed, the Senior Manager consults the Adult Safeguarding Team within one day to discuss a plan of action.

Sharing Information about the Allegation

It is the employer's responsibility to inform those involved. It may be beneficial for the employer to have a discussion with the Adult Safeguarding Team and/or the Police before sharing information about allegations. This would allow for agreement about how best to share information.

Any confidential information shared must be justified, the minimum necessary, and everyone with access to the confidential information should be aware of their responsibilities.

Member of staff/volunteer Subject to the Allegation

If there are allegations of a suspected criminal act then no information should be shared with the accused without consultation with the Police to ensure evidence for any criminal investigation is preserved. Information should otherwise be shared.

To support the care worker it is recommended that organisations have information readily available to signpost to support eg union, professional association, occupational health department.

If the person subject to the allegation is suspended from work, it is recommended the employer should have arrangements in place to ensure the individual is informed about developments in the workplace as well as the progress of the investigation.

Relatives and Carers

Relatives and carers will be informed of the allegation, where possible, with the consent of the person who is alleged to have been subject to abuse. There should have been agreement with the Adults Safeguarding Service before sharing information with the relatives and/or carers.

Safeguarding Adults Process

Where a referral has been made to the Adult Safeguarding Team in Oxfordshire County Council a Strategy discussion will take place within one working day of the referral unless there are exceptional circumstances. The process the Adult Safeguarding Team follow in cases of allegations against professionals or volunteers is no different to that followed in other safeguarding cases.

Strategy Discussion/Meeting

All relevant people are included in the Strategy Discussion/Meeting and any follow up discussions or meetings to ensure that the full scope of the enquiry can be effectively addressed. This should include the employer unless there is good reason not to do so.

The Strategy Discussion/Meeting will:

- Share all relevant information about the care worker who is the subject of the allegation and about the alleged victim
- Plan the investigation/enquiries and set timescales for tasks to be undertaken
- Consider whether any other people are affected by the allegation and how this might be further scoped
- Determine any action that needs to be taken in respect of any other adults identified
- Decide how regular information and support will be provided to the adult and family and by whom
- Ensure that the care worker who is the subject of the allegation is kept informed and supported
- Consider how the parallel processes (police investigation, s.42 enquiry, organisation's investigation) might work together to avoid confusion/disruption of the processes
- Consider whether the circumstances require the care worker who is subject to the allegation to be suspended from contact with adults with care and support needs and seek assurance from the employer that this has been done.
- Consider whether a referral to the Disclosure and Barring Service is required

In subsequent Strategy Review meetings/discussions, these issues will be reviewed and actions taken in line with new information.

Resignations and Settlement Agreements

Allegations must be reported even where the care worker tenders their resignation or ceases to provide their service. The refusal of the care worker subject to the allegation to engage with the investigation does not prevent this from happening.

Settlement agreements are where person agrees to resign, the employer agrees not to pursue disciplinary action and both parties agree a formula of words to be used in future references. Settlement agreements must not be used where a care worker is subject to allegations of abuse of adults with care and support needs. Settlement agreements do not override an employer's duty to make a referral to the Disclosure and Barring Service. The Police are not bound by any such agreement.

Action Following a Criminal Investigation or a Prosecution

The Police or the Crown Prosecution Service (CPS) will inform the employer and the Adult Safeguarding Service within 5 days of the criminal investigation and any subsequent actions are complete (eg decision to close the investigation without charge, decision not to prosecute, end of any trial).

The Adult Safeguarding Service may discuss and agree any further action to be taken with the employer. This discussion will take account of the relevant information, including the outcome of the Police investigation. Points for consideration are:

- Reporting to the Disclosure and Barring Service
- Reporting to the relevant professional body
- Whether the person subject to the allegation will return to work
- Process for the person subject to the allegation returning to work
- How to manage how the person subject to the allegation might avoid future contact with the adult with care and support needs or how their interaction will best be managed.

The adult with care and support needs (and relevant family/carers) will have been kept informed throughout the process as agreed at the first Strategy Meeting.

Appendix 1 - Legal Framework

The **Care Act 2014 guidance** document outlines the expectations on agencies when there is an allegation made against a member of staff or a volunteer working in a setting (Chapter 14.120, Allegations Against Persons in a Position of Trust: www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#safeguarding-1).

The **Courts and Criminal Justice Act 2015** now includes the following criminal offences:

20. Ill-treatment or willful neglect: care worker offence

(1) It is an offence for an individual who has the care of another individual by virtue of being a care worker to ill-treat or willfully to neglect that individual.

21. Ill-treatment or willful neglect: care provider offence(1)A care provider commits an offence if—

(a) an individual who has the care of another individual by virtue of being part of the care provider's arrangements ill-treats or willfully neglects that individual,

(b) the care provider's activities are managed or organised in a way which amounts to a gross breach of a relevant duty of care owed by the care provider to the individual who is ill-treated or neglected, and

(c) in the absence of the breach, the ill-treatment or willful neglect would not have occurred or would have been less likely to occur.