

Allegations Against Staff, Carers and Volunteers

Scope

All allegations of abuse of adults with care and support needs by those who work with them must be taken **very** seriously. Allegations against those who work with adults with care and support needs, whether in a paid or unpaid capacity, cover a wide range of circumstances.

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.

This procedure provides a framework for all agencies working in Oxfordshire when managing allegations against staff.

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 an adult with care and support needs, 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 towards an adult with care and support needs in a way that indicates that he or she may pose a risk of harm to adults with care and support needs.

- Behaved in other circumstances that may indicate that the person is unsuitable to continue to work with adults with care and support needs in their current position.

The allegations may relate to the care worker's behaviour at work, at home or in another setting.

The allegations may be made about a paid employee or unpaid volunteer.

In the context of this procedure, the term "employer" means the organisation that has a working relationship with the care worker against whom the allegation has been made and includes voluntary organisations, employment agencies and others.

Allegations of historical abuse against a person who works with children which may be historical or current, should be dealt with by employers in accordance with the Oxfordshire Safeguarding Children's Board procedure for Allegations Against Staff, Carers or Volunteers (available on the OSCB website: www.oscb.org.uk). In such cases, it is important to find out whether the care worker against whom the allegation is made is still working with children and if so, to inform the care worker's current employer or voluntary organisation.

Where concerns arise about a care worker's behaviour in relation to an adult with care and support needs they know outside of work or a voluntary position, such as a relative, friend or neighbour, the Police and Adult Safeguarding Service will consider informing the care worker's employer in order to assess whether there may be implications for an adult with care and support needs with whom the care worker has contact at work. In this case, this procedure will be applicable.

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 such allegations are made, consideration will be given to the following three strands:

- Possible criminal offence requiring police investigation
- adult protection requiring s.42 enquiry and assessment from the Oxfordshire Safeguarding Adults Service

- Organisational processes specific to the employer and possible disciplinary action in respect of the individual

Initial Considerations

Safeguarding Adults Alert

All allegations falling within the remit of this procedure that come to the employer's attention should be notified to the Adult Safeguarding Service in Oxfordshire County Council at the time the allegation is made. The Threshold of Needs document on the Oxfordshire Safeguarding Adults Board (OSAB) web page will support decision making. The Safeguarding Adults team can be contacted for guidance where there would be benefit in having an informal discussion about the situation.

Organisation

There will be an appropriate escalation policy in the organisation to ensure any concern identified about a care worker is managed according to organisational policies.

It is recommended that each organisation has a Senior Manager or safeguarding lead who responsible for coordinating the response to any allegation.

Some allegations will be so serious as to require immediate referral to the Adult Safeguarding Service and the Police. The organisation should have processes in place to allow for this contemporaneous reporting.

Allegations of possible crime

Where it is believed that a crime against an adult with care and support needs may have been committed, the organisation's procedure must include that the police are contacted on Tel: 101. The purpose of the discussion with the police is to help preserve any evidence – this includes the timing of informing the member of staff/volunteer about the allegation.

The Adult Safeguarding Service in Oxfordshire County Council will expect that a senior manager will consult with them within once working day to help determine the actions to be taken.

Less serious allegations

Organisations will have processes in place to investigate less serious in a timely way and the outcomes shared with the Safeguarding Adults Service in OCC.

Sharing Information about the Allegation

It is the employing organisation's responsibility to inform patients/clients as incidents happen. This is in line with their duty of candour. It may be beneficial for the employer to have a discussion with the Adults Safeguarding Service and/or the Police before sharing information about allegations against staff/volunteers. This would allow for agreement about the relevant information to share and how best to share this information. This will reduce the likelihood of misunderstanding and unmet expectations.

Member of staff/volunteer Subject to the Allegation

The employer should inform the accused person about the allegation only after consulting with the Adults Safeguarding Service and/or the Police. The agencies should agree what information can be disclosed to the person.

To promote fairness and honesty in the treatment of the care worker subject to the allegation, it is recommended that organisations have information readily available to signpost the care worker 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.

Relatives and Carers

In some situations, it is the relatives and/or carers who are making the allegations against the member of staff/volunteer and will therefore know that the allegation has been made.

Where they have no knowledge of the allegation, 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.

Any information shared will be in line with the Data Protection Act and Caldicott Principles.

Safeguarding Adults Process

Where there is cause to suspect that an adult with care and support needs is suffering or likely to suffer significant harm, a referral must be made to the Adult Safeguarding Service in Oxfordshire County Council. A decision will be taken to have a Strategy Meeting/Discussion which will take place within one working day of the referral unless there are exceptional circumstances.

The initial decision may be that the Adult Safeguarding Service will not be involved eg where the allegation is about historical abuse and the adult with care and support needs has no further involvement with the staff member/volunteer but there is a police investigation. The Adult Safeguarding Service will have a discussion with the police, the employer and other relevant agencies to evaluate the allegation to agree the approach taken. This will take into account the police investigation and the organisation's own investigation. Agreement will be reached about information that will be shared subsequently and the timing of any updates

The first review meeting/discussion will be held no later than 4 weeks after the initial meeting/discussion to consider the allegation. Dates for future reviews will be set at this point.

Where a decision is made that neither the Adult Safeguarding Service nor the Police are required to continue any involvement, the Adult Safeguarding Service will discuss next steps with the care worker's employer within three working days of this decision being made. The organisation should follow organisational processes and provide information about the outcome of the investigation to the Adult Safeguarding Service as agreed. The timeframe will be subject to variables (eg availability of staff for interview) and will be agreed in the Adult Safeguarding Service/employer discussion.

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 Compromise Agreements

Allegations must be followed up in line with this procedure even where the care worker tenders their resignation or ceases to provide their service. All available evidence is considered as part of the investigation to reach a reasonable judgement about the allegation. The refusal of the care worker subject to the allegation to engage with the investigation does not prevent this from happening.

Settlement agreements (by which a 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) 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 will 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 – the form and content of any referral
- 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 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.

Retention of Information

Information will be retained in line with existing information governance policies.