



# **Sparkle Procedure for Investigating Allegations of Abuse by Members of Staff or Trustee**

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**Appendix 1:** Allegation of child abuse against a member of staff or Trustee flowchart.

## 1 EXECUTIVE SUMMARY

- 1.1 Children have a right to be safeguarded and protected from harm. All Trustees, staff and volunteers of Sparkle must have a commitment to protect children in the care of Sparkle and to safeguard them from any harm. All those who work with or near children must understand what they should do if the suspicion of child abuse arises.
- 1.2 The Sparkle Safeguarding and Child Protection Policy, together with the All Wales Child Protection Procedures should be followed in cases where abuse is suspected of having occurred outside of Serennu.
- 1.3 The purpose of this procedure is to guide Trustees, staff and volunteers through the process to be followed where child abuse is suspected to have occurred within Serennu or during a Sparkle activity.
- 1.4 The procedure is in line with chapter 12 of the Welsh Governments document 'Safeguarding Children: Working Together Under the Children Act 2004' and based on guidance issued by the Welsh Government 'Safeguarding children: handling allegations of abuse against teachers and other staff' (April 2014).
- 1.5 In sections 2 and 3, the policy also gives guidance on dealing with Trustees, staff and volunteers who have been identified as being a "**Risk to Children**" and allegations against Trustees, staff and volunteers who are suspected of accessing or distributing child pornography.

## 2 WHAT IS CHILD ABUSE?

- 2.1 Child abuse is not an absolute concept. Most behaviour towards children has to be seen in context before it can be thought of as maltreatment. Someone may abuse a child by inflicting harm or failing to act to prevent harm. Harmful behaviours toward children may be emotional, physical, neglectful or sexual or a combination of these.
- 2.2 There are many ways in which Trustees, staff or volunteers may suspect abuse. The child may disclose something or try to complain. A parent or guardian, or another member of staff may provide information. Staff may also directly observe behaviour that causes them to suspect that a child is being harmed whilst being in the care of Sparkle.
- 2.3 Trustees, staff and volunteers who have any suspicions but are unsure whether or not to report the matter should contact the named professionals for Child Protection within Serennu.
- 2.4 For the purpose of this procedure a child is deemed to be any young person under the age of 18 years.

### 3 SECTION 1- Allegation of abuse

- 3.1 Any member of staff forming such suspicions or receiving such a complaint from a member of the public must immediately contact the Centre Manager. The Trustee with a lead for child protection must also be informed. (see Appendix 1). If the suspicion concerns the Centre Manager or named Trustee then the concern will need to be raised directly with the Chair/Vice Chair of Trustees.
- 3.2 If a complaint about a member of staff or Trustee is made, or a concern expressed, an early determination must be made about whether it is a child protection matter. Any identified concerns and the view taken must be fully recorded.
- 3.3 If the complaint or concern is deemed to be a child protection issue, the immediate priority is to ensure the protection and safety of the children and to manage the staff issues. The Centre Manager /Chair of Trustees will ensure that action is taken to prevent the member of staff from having further contact with the child and consider whether other children might be at risk. This may include suspension from duty or temporary transfer to other duties (see item 3.8.1). **If the allegation is that an assault which could have resulted in an injury has occurred the need for the child to be examined by a Paediatrician should be considered.**
- 3.4 The matter should be reported to the relevant Social Services department as soon as possible but no later than 24 hours after the original allegation using the multi-agency referral form which is available from the Sparkle office. They will convene a Strategy Meeting in accordance with child protection procedures. This will involve Social Services, the Police, ABUHB named Professional, Sparkle named professional and where possible, an appropriate Trustee with a lead in human resources.
- 3.5 If it is the view that the complaint is not a child protection matter, it may still need to be investigated under the Sparkle disciplinary procedures.

### 3.6 Co-ordinating the Investigation

- 3.6.1 It should be noted that Sparkle cannot undertake a Section 47 (Children Act) Child Protection Investigation. This is the role of the Statutory Agencies i.e. Social Services and the Police.
- 3.6.2 A Professional Strategy Meeting will be convened by Social Services within two working days of the complaint to plan and co-ordinate the investigation and staff management issues. The Strategy Meeting is the core mechanism for:
- Determining whether a Section 47 (Children Act 1989) inquiry is required;
  - Planning the investigation in relation to child protection, criminal investigation and disciplinary investigation;
  - Ensuring that the child's voice and experience is heard;

- Managing the personnel issues;
- Co-ordinating the procedures being operated and determining the relative priority in the event of any conflict.

3.6.3 The Strategy meeting should be attended by:

- The Assistant Director or designated Senior Manager (Social Services);
- The Chief Executive or designated Senior Manager of ABUHB;
- Lead Sparkle trustee for Child Protection;
- Lead Sparkle trustee for Human Resources;
- Sparkle Operational Manager / Centre Manager;
- Senior Police or Specialist Police Officer with Child Protection responsibilities;
- An ABUHB Named Professional for Child Protection;
- Child Protection Co-ordinator (Social Services);
- Person with details of the allegation (e.g. the person who observed the incident of the person to who the child disclosed);
- Legal/Medical Advisors as appropriate.

3.6.4 The first task of the Strategy Meeting will be to consider the full details of the allegation, any other relevant information and whether in light of the information available a Section 47 (Children Act 1989) inquiry is required.

3.6.5 The member of staff/Trustee against which the allegation has been made will be informed of any action taken.

3.6.6 Should the meeting decide that a Section 47 (Children Act 1989) inquiry is not required, there may still be matters which need to be considered subsequently internally within Sparkle under capability or disciplinary procedures.

3.6.7 The decision to proceed with a Section 47 (Children Act 1989) inquiry results in the:

- Commencement of the child protection investigation; and
- The continuation of staff management/disciplinary processes.

### **3.7 Child Protection Investigation**

3.7.1 Should a child protection investigation be necessary this will normally be conducted on a joint basis between Social Services and the Police. The planning for that investigation will be undertaken in the Strategy meeting. This will include:

- The immediate protection of the child;
- Consideration of age, disability (including methods of communication) ethnicity, language, level of intellectual ability, normal routine;
- Who should conduct the interviews and where they should be conducted. The roles of those involved and support for the child;

- Consideration should be given to the extent of potential risks to other children, including the workers own children or those that they come into contact with in other settings;
- The parents/guardians of the child will be kept fully informed of the allegations and what role they will have in the investigations;
- The child should also be kept informed, subject to their age and understanding.

### 3.8 Staff Management / Disciplinary Issues

#### 3.8.1 Suspension of staff from duty

3.8.1.1 The Centre Manager/Senior Manager on call/Trustee will need to consider whether the member of staff should be suspended from duty on full pay and without prejudice in accordance with the Sparkle Disciplinary Procedure. The 'Warner' criteria for suspension should be considered if one of the following criteria is met:

- Where an allegation has been made which if proven would lead to dismissal or prosecution;
- Where a child could be placed in danger if the member of staff were not removed from duty;
- Where it is necessary to allow a full and proper investigation and the taking of statements for criminal proceedings.

3.8.1.2 Where it is considered that suspension is not appropriate then consideration should be given to temporarily transferring the employee to other duties.

3.8.1.3 Consideration should be given as to what information (ideally in consultation with the employee and their representative) is to be given to work colleagues

3.8.1.4 The circumstances must therefore be thoroughly investigated by an appropriate manager supported by the Sparkle Trustee lead for child protection/Sparkle Chair of Trustees. If there is a case to answer a Disciplinary Hearing will be convened. The employee will be entitled to representation and appeals as per Sparkle's Disciplinary Procedure. **(Note: The disciplinary process should be operated as swiftly as possible. It should not necessarily be delayed where there is also a police investigation).**

3.8.1.5 The Centre Manager/Sparkle Chair of Trustees, will facilitate support for the member of staff concerned, if appropriate.

3.8.1.6 During the course of any investigation conducted, Sparkle staff can expect to be treated fairly and in confidence. Sparkle's prime consideration however will be to protect the interests of the affected child in line with the agreed procedures currently operating within Gwent.

3.8.1.7 Any interviewing of children must take place by the Police or Social Services under child protection procedures. Children should not have to be re-interviewed under disciplinary procedures.

3.8.1.8 There needs to be consideration of notification to the following bodies; the Sparkle Trustee lead for child protection should make this decision:

- Disclosure and Barring Service (DBS);
- CIW, NMC, GMC or other professional body;
- The Charity Commission;
- And, where applicable, funding bodies.

3.8.1.9 This should also happen if an individual leaves the organisation before the disciplinary hearing has been completed and if the circumstances are such that the individual would potentially be dismissed. This is the case whether or not criminal charges are brought.

### **3.8.2 Trustee Issues**

3.8.2.1 Where the allegation concerns a Trustee, the Sparkle Trustee lead for Child Protection will follow the steps as outlined in 3.8.1 which apply to Trustees.

## **4 SECTION 2 – Persons identified as presenting a risk or potential risk to children**

4.1 It has become clear that the use of the term Schedule 1 is ill defined and to a certain extent unhelpful as it defines people by their offending history rather than their ongoing risk to children and young people therefore the term 'risk to children' is now used. This does not mean that Schedule 1 of the Children's and Young Persons Act has been repealed or amended and no changes have been made to existing inter-agency or child protection procedures which should be followed as before. Offences to children under the age of 16 include:

- Assault;
- Cruelty;
- Neglect;
- Abandonment;
- Sexual exploitation;
- Sexual Assault (including rape);
- Facilitating child pornography or prostitution.

### **4.2 Procedure to be followed**

- 4.2.1 It is the duty of any member of staff/Trustee who have been identified as a risk to children or young people to declare this to Sparkle. Failure to do so will result in disciplinary action. Information of this nature may be reported from another source either from within the organisation or from an external agency such as the Health Board, Police or Social Services. In the event of this happening, the matter should be reported to the Sparkle Trustee lead for child protection/Sparkle Chair/Vice Chair of Trustees.
- 4.2.2 The Sparkle Trustee lead for children protection/Sparkle Chair/Vice Chair of Trustees will convene a meeting to consider the course of action to be taken. The meeting will be attended by:
- The Sparkle Trustee lead for child protection/Sparkle Chair/Vice Chair of Trustees;
  - Centre Manager; and
  - Person with details of the allegations (where that person is a member of staff, a work colleague may also be in attendance).
- 4.2.3 Consideration will be given as to whether suspension from duty is appropriate (see item 3.3) or whether alternative duties can be offered whilst the matter is investigated under the Sparkle Disciplinary Procedure.
- 4.2.4 Each individual will be dealt with on a case by case basis with account being taken of the individual circumstances
- 4.2.5 The Trustee lead for child protection/Sparkle Chair/Vice Chair of Trustees will consider notifying the DBS, CIW, NMC, GMC, The Charity Commission and where applicable, the grant funding body as they have a duty of care to protect vulnerable children.

## **5 Child pornography and the internet**

- 5.1 There is absolute prohibition in the United Kingdom of all forms of child pornography.
- 5.2 Under the Protection of Child Act 1999, it is an offence to take or permit to be taken, distribute, show or possess with a view to distribution any indecent photographs of a child under 16. This includes material passing over the Internet. Such an offence would be regarded as gross misconduct under the Sparkle disciplinary rules and would probably result in summary dismissal.
- 5.3 If a member of staff or Trustee is suspected of accessing or distributing child pornography with Sparkle, the matter should be reported to the Centre Manager/Sparkle Chair of Trustees who will inform the Sparkle Trustee with a lead for child protection. The Police MUST be informed and consideration given to suspension or temporary transfer to other duties pending a disciplinary investigation.
- 5.4 Alternatively the allegation against a member of staff or Trustee may come directly from the police as part of an external investigation.

- 5.4 When an individual is discovered to have placed child pornography on the Internet, or have accessed child pornography, the police will normally consider whether the individual might also have been involved in the active child abuse of children and if necessary instigate the All Wales Child Protection Procedures.

## **6 Confidentiality**

- 6.1 It is vital that whilst allegations under the remit of this policy are being investigated that the confidentiality of all the individuals concerned is maintained. Any member of staff/Trustee who wilfully divulges details to colleagues or individuals outside Sparkle will be subject to disciplinary action.

## **7 Record Keeping**

- 7.1 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, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, is kept on the confidential personnel file of the accused staff member/ Trustee, and a copy provided to the person.
- 7.2 The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where future DBS Disclosures reveal information from the Police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time. The record should be retained at least until the accused has reached normal retirement age, or for a period of 10 years from the date of the allegation if that is longer.

## **8 Individual support**

- 8.1 If following investigation an individual is exonerated of allegations, appropriate support if needed should be agreed between the individual and their manager.

## **9 Learning lessons**

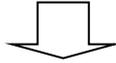
- 9.1 At the conclusion of a case in which an allegation is substantiated, the Centre Manager and the Sparkle Trustee with a lead for child protection, should review the circumstances of the case to determine whether there are any improvements to be made to Sparkle's procedures or practice to help prevent similar events in the future. This should include issues arising from the decision to suspend the member of staff/ Trustee, the duration of the suspension, for example, and whether or not the suspension was justified.

- 9.2 Lessons should also be learnt from the use of suspension when the individual is subsequently reinstated. Where this is the case, consideration should be given as to how future investigations, of a similar nature, could be carried out without suspending the individual.

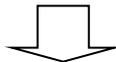
## APPENDIX 1 – Allegation of child abuse against a member of staff or Trustee.

### INITIAL ACTION

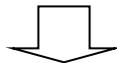
Allegation of abuse against employee or Trustee



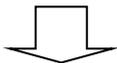
Contact named Professional for Child Protection  
Inform Centre Manager/Chair of Trustees who will ensure:



- Employee / Trustee is removed from contact with child
- Initiate initial investigation
- Consider suspension or temporary transfer to other duties
- Consider appropriate support for employee e.g. professional organisation, etc.
- Inform Statutory Agency within 24 hours



Investigation under Sparkle  
Disciplinary Procedure



**ACTION**

**\*\*\*Keep parents/guardians informed\*\*\***