

Managing Safeguarding Allegations Against Staff: Policy and Procedure

NHS England and NHS Improvement



Contents

1	Introduction	4
2	NHS England and NHS Improvement commitments and values.....	4
3	Application and scope	4
4	Managing allegations: Immediate actions	5
5	Procedure for reporting and managing allegations: NHS England & NHS Improvement staff	6
6	Procedure for reporting and managing allegations: Non-directly employed staff.....	8
7	Disclosure and Barring Service (DBS)	10
8	Record-keeping	11
9	Post-investigation review	12
10	Monitoring	12
11	Equality and health inequalities analysis	12
	Appendix 1: Definitions of 'at risk', 'harm' and 'relevant conduct'	15
	Appendix 2: Managing Allegations Process Flowchart	22
	Appendix 3: Record-keeping checklist.....	23

- students
 - honorary appointees
 - trainees
 - contractors
 - temporary workers, including locum doctors and those working on a bank or agency contract
 - staff registered as performers on the National Performers' List.
- 3.2 For ease of reference, all employees and workers who fall into these groups are referred to as 'staff' in this document.
- 3.3 The policy covers allegations made against staff both within and outside their NHS England & NHS Improvement duties, such as in their private life, including:
- the commitment of a criminal offence against, or related to, a child, young person or adult at risk;
 - a failure to work collaboratively with social care agencies when an issue about the care of a child, young person or adult at risk for whom they have caring responsibilities, is being investigated;
 - behaving towards a child, young person or adult at risk in a way that suggests they are unsuitable to work with them;
 - the commitment of domestic violence or abuse, or the failure to ensure that a vulnerable individual is protected from the impact of such violence or abuse; and
 - abuse against someone closely associated with a member of staff, such as a partner, or a member of the family or household.
- 3.4 Although managing safeguarding allegations against staff is covered by the Children Acts (1989/2004), this Policy also applies to vulnerable adults at risk of harm or abuse as per the Care Act (2014). [Working Together to Safeguard Children \(2018\)](#) states that all statutory organisations should have a procedure for managing allegations against staff.

4 Managing allegations: Immediate actions

- 4.1 The regions will need to understand their local multi-agency policies and procedures for managing allegations, in conjunction with the NHS England and NHS Improvement Accountability and Assurance Frameworks.
- 4.2 Three separate actions must be considered when an allegation is made:
- enquiries and assessment by child/adult social care, into whether a child/young person/adult at risk of harm or abuse is in need of protection
 - a police investigation of a possible criminal offence
 - disciplinary action (including suspension).

- 4.3 The safety of the child, young person or adult at risk is of paramount importance, and immediate action may be crucial in safeguarding an investigation. Where there is concern that other individuals may be at risk of harm or abuse, this must be reported immediately.
- 4.4 Reputational issues must be managed appropriately, in discussion with the relevant communications team.
- 4.5 All staff must be familiar with referral procedures for the protection of children and adults at risk. A concern must be reported to a staff member's line manager, who should take advice from the regional or central safeguarding lead. See Appendix 2 for a flowchart of this process.
- 4.6 All LSCBs and SABs have their own websites, which set out their safeguarding policies and procedures. In addition, each Local Authority has a Local Authority Designated Officer (LADO) to act on its behalf in investigating allegations - a role cited in the Savile investigations as critical for working in partnership with the NHS. The LADO should be informed of all allegations, in line with local safeguarding procedures.
- 4.7 A Serious Incident Report of an allegation against a member of staff should be managed using [Strategic Executive Information System \(StEIS\)](#) methodologies.
- 4.8 It is crucial that no action taken by NHS England & NHS Improvement to manage an allegation will jeopardise an external investigation, such as a criminal investigation.

5 Procedure for reporting and managing allegations: NHS England directly employed staff and performers

- 5.1 Every effort must be made to maintain confidentiality, and manage communications effectively, whilst an allegation is being investigated. Any information-sharing must comply with the requirements of data protection legislation¹, the Human Rights Act and the common law duty of confidence.
- 5.2 Please refer to section 7 about the Disclosure and Barring Service (DBS).
- 5.3 Each NHS England & NHS Improvement region, and the central support team, will have a Nominated Safeguarding Senior Officer (NSSO) who will lead and co-ordinate investigations - and be of sufficient seniority to make decisions - on behalf of NHS England. Where there is no-one in this role, the Regional Chief Nurse will act as the point of contact to identify and appoint the NSSO.
- 5.4 The NSSO should ensure (if appropriate) that a child protection/adult at risk referral is made (or has been made) to the relevant social care team and,

¹ The EU General Data Protection Regulation and Data Protection Act 2018

- review the action already undertaken to ensure the safety of the victim
 - decide on the internal investigation strategy
 - make a referral to the appropriate professional body, e.g. GMC or NMC, if applicable. This referral could be made prior to any HR investigation, dependent on how serious the allegations are on the clinician
 - decide how to present the allegations to the staff member concerned, and – in agreement with child/adult social care and the police - what information should be passed to the staff member
 - decide how the investigation process will be managed, ensuring that NHS England & NHS Improvement performance procedures are followed
 - decide how the child/adult at risk of harm or abuse, or their nominated parent/guardian/nominated carer making the allegation, is to be kept informed of progress in the investigation
 - ensure that the incident has been reported on the [StEIS system](#)
 - ensure that relevant information is shared with the senior management team
 - decide on the frequency and format of review meetings needed to manage the investigation and its resulting actions.
- 5.12 The police and/or social care should be consulted when they are involved in any on-going investigation, and/or when criminal proceedings are pending.
- 5.13 The staff member's line manager should be asked to provide appropriate support to the individual, and keep them regularly informed, while the case is on-going. Further support may be also be provided by Occupational Health.
- 5.14 The sharing of information must not 'contaminate' any on-going NHS England or NHS Improvement, police or child/adult social care investigations. Confidentiality must be maintained at all times, and any information-sharing must comply with the requirements of data protection legislation, the Human Rights Act and the common law duty of confidence.
- 5.15 The NHS England or NHS Improvement Communications Team will advise on the handling of any media queries regarding an allegation.

6 Procedure for reporting and managing allegations: Non-directly employed staff

6.1 The [2015 report by Kate Lampard QC](#) on the Jimmy Savile investigations gives clear guidance for dealing with allegations against non-directly employed staff. It states that such allegations must be shared with the individual's employer or employing body at the earliest opportunity.

For example:

Appendix 1:

Definitions of 'at risk', 'harm' and 'relevant conduct'

Definition of people at risk

Safeguarding means protecting a person's right to live in safety, free from abuse and neglect. All staff within NHS England & NHS Improvement have a responsibility to safeguard people in their care, but extra care must be taken to protect those who are least able to protect themselves. Children and young people, and vulnerable adults, can be at particular risk of abuse or neglect.

A child is a person aged under 18 years; young people aged 16 or 17 who are living independently are still defined as 'children'.

A vulnerable adult is someone who may be in need of care because of a physical, learning or other disability, or because of their age or an illness. This definition also applies to an adult who is unable to take care of him or herself properly, or who is unable to protect him or herself from significant harm or exploitation.

Some groups of people are particularly vulnerable to harm and exploitation, and it is important that their needs are carefully considered:

- those with disabilities
- those living away from home
- asylum seekers
- children and young people in hospital
- children in contact with the youth justice system
- victims of domestic abuse
- those who may be singled out due to their religion or ethnicity
- those who may be exposed to violent extremism.

Definitions of harm: Children

Physical harm

Physical harm is defined as physical contact that results in discomfort, pain or injury. It may involve hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating, or otherwise causing physical harm.

Supplying drugs to children, or the use of inappropriate or unauthorised methods of restraint, also fall under this definition.

Physical harm may also be caused when a parent or carer fabricates the symptoms of, or deliberately induces or causes, illness in a child. This situation is commonly described as 'factitious illness by proxy' or 'Munchausen syndrome by proxy'.