

Risk management following an allegation against an employee

This fact sheet is intended to provide an overview of risk management issues in relation to allegations of a child protection nature against employees. It is not comprehensive and agencies should seek advice when in doubt about any of these issues.

What is risk management?

Risk management means identifying the potential for an incident or accident to occur and taking steps to reduce the likelihood or severity of its occurrence. Employers need to assess the inherent risks in their agency to children and young people for whom they have responsibility.

All employment situations do not carry the same risks; nor do all employees. Similarly, all children do not have the same vulnerability. Recognising and acknowledging the risks in employment situations is the first step towards effective risk management. Agencies should have a risk management plan in place that includes procedures to ensure that children are provided with a safe environment.

Risk assessment after an allegation is made

The head of agency is responsible for assessing the risk that an employee poses to a child(ren) once an allegation is made, during an investigation and at the end of the investigation so that a final decision can be made regarding what action, if any, needs to be taken regarding the employee to address that risk.

An agency's child protection policy should include information about what might happen to an employee:

- immediately following an allegation being made against them
- during the investigation of the matter, and
- at the end of the investigation.

A statement needs to be included in the policy that a decision to take action on the basis of a risk assessment should not influence the findings of the matter. Until the investigation is completed and a finding is made, any action, such as moving an employee to alternate duties, is not to be considered to be an indication that the alleged conduct by the employee did occur.

It is important to record the reasons why decisions are made to take, or not take, any action as a result of a risk assessment.

Initial risk assessment

One of the first steps after an allegation of a child protection nature is made against an employee is to conduct a risk assessment. The purpose of this initial risk assessment is to identify and avoid or minimise the risks to:

- the child(ren) who are the subject of the allegation
- other children with whom the employee may have contact
- the employee against whom the allegation has been made
- the employing agency, and
- the proper investigation of the allegation.

When an allegation is made, limited information may be available to inform this risk assessment. For example, the initial complaint or allegation may have been made anonymously or little detail about the allegation may have been provided. It is, therefore, important to review this initial risk assessment as further information comes to light during the investigation.

When taking action to address any identified risks, the agency must take into consideration both the needs of the child and the employee against whom the allegation is made.

Protecting children

The immediate response to an allegation should be one that ensures the safety of the child or other children. Consideration needs to be given to the following issues:

- does the child require protective intervention? Depending on the level of risk identified, a report to your industry Child Well Being Unit or to the 'Helpline' of Community Services should be made and advice obtained about what action (if any) Community Services intends to take and when, regarding the child and the employee
- whether any steps need to be taken to prevent further reportable conduct
- where possible, the child's daily circumstances should remain unchanged. Exceptions might be where the child is considered to be at risk of victimisation by peers or employees as a result of the allegations, or where it is difficult to ensure a child's safety because of the agency's inability to directly supervise the child and the employee. For example, in 'out of home care' situations.
- support for the child(ren) involved should also be considered.

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Employment related issues

When an allegation is received, the agency needs to consider the following issues:

- should the employee remain in their current position, be moved to another area or be suspended?
- factors to be considered in making this decision include:
 - › the nature and seriousness of the allegation(s)
 - › the vulnerability of the children the employee would be in contact with at work. For example, the age of the child(ren), their communication skills, or disability
 - › the nature of the position occupied by the employee. For example, their level of interaction with children
 - › the level of supervision available for the employee
 - › the availability of support for the employee on a day-to-day basis if their duties are unchanged. For example, if they are managing children with challenging behaviours in a classroom or living in 'out-of-home care'
 - › the employee's disciplinary history
 - › other possible risks to the investigation
- if the employee remains in the workplace, a decision should be made about the duties that they will undertake and who will monitor and assess the risks associated with the employee having access to children in the care of the agency
- if Community Services and/or the police are involved, check with them to see if any action taken by the agency will interfere with their investigations. It might also be appropriate to discuss any proposed changes to the employee's duties.
- appropriate support for the employee who has had the allegation made against them should also be provided.

Maintaining confidentiality

Agencies should ensure that confidentiality is maintained following an allegation against an employee, and should in particular, take steps to ensure that:

- all parties are advised of the need for confidentiality during the investigation
- systems are in place to deal with any breaches of confidentiality (this could include the process of reporting any breaches to the head of agency, and the appropriate response to the media if it becomes aware of an allegation against an employee).

Contact us for more information

Our business hours are: Monday to Friday, 9am–5pm (*Inquiries section closes at 4pm*)

If you wish to visit us, we prefer you make an appointment. Please call us first to ensure your complaint is within our jurisdiction and our staff are available to see you.

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Telephone Interpreter Service (TIS): 131 450
We can arrange an interpreter through TIS or you can contact TIS yourself before speaking to us.



Ongoing risk management

When gathering information about an allegation, it is important to manage any new risks that emerge. Agencies should ensure that, on the basis of their ongoing risk assessment, appropriate support is being provided for:

- the child(ren) who were the subject of the allegation
- the employee who was the subject of the allegation, and
- other relevant parties (this may include parents or carers of the child, other children or other employees affected by the allegation, for example, a witness to the alleged conduct).

It is also important to:

- ensure that the employee the subject of the allegation is treated fairly and afforded procedural fairness, and
- address actual or potential conflict of interests.

Risk management at the conclusion of the investigation

At the completion of the investigation, a finding should be made in relation to the allegation and a decision made regarding what action, if any, is required in relation to the employee, the child(ren) involved and any other parties. A review of the investigation should then be conducted to ensure that all relevant risk issues have been considered. This might include looking at environmental factors and work practices that result in situations of unsupervised access to children by employees. This information will provide the agency with an opportunity to put in place measures to minimise any further risk of harm to children in its care. Such measures may include:

- training for one or more employees
- changing work practices in certain situations
- changes to the physical environment, or
- reviewing the child protection policy.

If you have any queries or comments, we are here to assist you. Call the Ombudsman's Employment Related Child Protection Division on 02 9286 1000.