Reporting and investigation of abuse allegations by staff and volunteers

Standard

- This section sets out the requirements for handling allegations of abuse by employees and volunteers, based on Section 18 of The Child and Family Services Act and Standard 1.3.4.

Commentary

Child welfare authorities are increasingly required to investigate child protection concerns for children already involved in the child welfare system. On occasion, this involves youth care/residential child care facility staff who have allegedly harmed a child in care. It applies to all situations that have been handled inappropriately, resulting in children being harmed or potentially harmed. It is important to note that children have at times made allegations against caregivers that have no factual basis.

In March 1999, with the proclamation of Chapter 48 (The Child and Family Services Act), the director assumed new powers for investigations.

Section 18.6 states that when an agency receives information about a situation where a child may have been abused “by a person who provides work for or services to the agency or to a child care facility or other place where a child has been placed by the agency,” the agency shall immediately notify the Director and the “Director shall investigate the matter and take such further steps as are required by the Act.”

Further, in 2009, the Child Abuse Standards were amended to clarify the meaning of “to immediately notify the Director.” Section 1.3.4 of the Standards states “within one working day.”

There now is a unit or team of Provincial Investigation Specialists to more effectively respond to allegations and complete Section 18.6 investigations in a timely manner that is least disruptive to all involved. The primary purpose of these positions is to reduce both the perceived and real conflict of interest in conducting such investigations and to increase their consistency and timeliness. It ensures transparency, reduces bias and allows for a transparent investigative process, regardless of whom is alleged to have harmed a child.

While these investigations are governed by the same legislation, guidelines and standards as all abuse investigations, the position of the person accused enhances the need for:

- an impartial investigation
- a timely response
- recommendations and outcomes which employers would then consider in future planning

The intent of this legislation is to minimize any conflict of interest to the parties involved in the investigation.

Scope of Investigations

Provincial investigations include, but are not limited to, employees, board members and volunteers. Employees include regular field staff, supervisors, managers, homemakers, parent aides, child support workers, service-purchase staff, or any person who works for an agency or facility as defined in the act. This includes an allegation of suspected abuse of a child who is, or was, in a residential child care facility at the time of the alleged incident.

While section 18.6 includes any place an agency places a child, the branch may give priority to situations considered to have a high conflict of interest or requiring a large-scale investigation, due to multiple potential victims.
Definitions
The following definitions apply to these guidelines:

*Facility* - includes treatment centres and group homes (excludes foster homes)

*Foster Homes* - includes foster homes and homes designated as places of safety

Response
A provincial investigations specialist will investigate all allegations involving agency staff, residential child care facility staff and high conflict cases. Foster home abuse allegations are included under the scope of the provincial investigations specialist. They may also be delegated by the director to an agency to ensure effective service delivery, considering Manitoba’s large geographic area.

Where a situation requires an emergency response after hours under Section 18.6, the situation is forwarded to the Designated Intake Unit (DIA). Section 18.6 does not replace an agency’s duty under section 18.4 to conduct a child protection investigation and to intervene to protect a child. The intent of section 18.6 is to minimize any conflict of interest to agency persons conducting an investigation.

Some investigations (for example, foster home allegations) are presently delegated to an agency to conduct the investigation. Afterward, an investigation report is submitted to the provincial investigations specialist for review as the investigation falls within Sec. 18.6 of the CFSA.

A provincial investigations specialist will be responsible for investigations considered to have obvious conflict of interest, or where the scope of the investigation is likely to involve multiple potential victims.

Investigations that should be completed by a provincial investigations specialist include cases in which:

- a child in care makes an allegation against an agency staff member, volunteer or board member
- a child in care makes an allegation against a residential child care facility staff member or volunteer
- the conflict of interest is extremely high (ex: an allegation by a staff member’s own child or by someone directly related to a person in authority with a facility or child welfare agency)

Process For Provincial Investigations
Referral
The Child Protection Branch has established procedures and forms for reporting suspected child abuse that falls under section 18.6 of The Child and Family Services Act. They apply to child and family services agencies and to residential child care facilities.

Agency/ residential child care facility reporting involves the following steps:

1. The reporting agency/residential child care facility must notify (verbally or written) the provincial investigation unit (PIU) at the Child Protection Branch within one working day of receiving information of suspected child abuse. This is done by calling the receptionist at 204-945-6964 and asking to speak to a provincial investigations specialist, or by sending a fax to PIU at 204-945-6717 or via e-mail to the PIU manager. Preliminary information about the incident or situation should include the following, wherever possible:
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- name of the person suspected of abusing a child
- where the person works or provides services, including foster parents or place of safety providers
- name and age or birth date of the child, if known
- legal status of the child (ex: living at home, in care, voluntary placement, order of guardianship)
- where and when the alleged abuse occurred

2. The reporting agency/residential child care facility completes the provincial child abuse investigation referral form and submits it to PIU within five working days of receiving information of the suspected abuse. PIU forms are available through the Child and Family Services Information System or the branch. The report may be sent by email to the provincial investigation specialist or manager assigned to the case, if known, or by fax to PIU at 204-945-6717.

3. In addition to the provincial child abuse investigation referral form, residential child care facilities are also required to complete an incident report and forward it to the:
   - Child Protection Branch (both the provincial licensing specialist and the PIU)
   - child’s placing agency

Licensees must follow incident reporting procedures as required by this manual. A copy of the incident report is then given to a provincial investigations specialist by the provincial licensing specialist. Completion of the Provincial Investigation Referral Form should be completed by the residential child care facility and immediately forwarded, with the Incident Report attached.

This ensures that the provincial investigations specialist will respond as quickly as possible and ensures the most effective response to an abuse allegation.

Abuse Allegations and Investigations

Abuse allegations refer to all incidents or disclosures of alleged or suspected physical, sexual or emotional abuse. Sexual abuse includes sexual exploitation. Allegations can be separated into current and past incidents.

Current Allegations

Current allegations can involve incidents that have happened with individuals that have recently had contact with the resident.

- If the allegations involve family members, third party individuals, other residents or peers, the allegations should be documented in an incident report and submitted to the resident’s social worker and to the provincial licensing specialist, as required.
- All allegations must be reported within one working day.
- The resident’s social worker is responsible for following up and either completing the investigation or forwarding the abuse investigation referral to the abuse unit, as appropriate.
- If a resident returns to the residential child care facility alleging a recent sexual assault, immediate medical attention should be sought at the Child Protection Centre – Children’s Hospital in Winnipeg or an available medical facility outside of Winnipeg.
- If the resident returns to the residential child care facility and is alleging a recent physical assault and there is an indication of physical injury, medical attention should be sought and injuries documented. Ensure the physical health of the resident. This should be done at the
Child Protection Centre – Children’s Hospital in Winnipeg or at a medical facility outside of Winnipeg.

- If the allegations involve a staff member of the residential child care facility, the allegations should be written in an incident report and submitted to the resident’s social worker and the provincial licensing specialist. A provincial investigations specialist referral form should be completed and submitted via fax, email or a phone.
- The allegations must be reported immediately, either through email or phone call, with a written incident report to follow.
- The provincial investigations specialist will be responsible for following up and completing the investigation.
- The supervisor of the residential child care facility will be notified by the provincial investigations specialist.
- The staff member may or may not be suspended until the investigation is completed. Residential child care facilities can consult with the provincial investigations specialist to help with this decision.
- If the provincial investigations specialist deems the matter to be a potentially criminal matter, it will be referred to law enforcement and a joint investigation will commence whereby both child welfare (provincial investigations specialist) and police will investigate within their jurisdictions and mandates.

Past Allegations
Disclosures by residents about past allegations of abuse may involve individuals who may, or may not, still have contact with the resident, or other youth.

- If the allegations involve family members, third party individuals, other residents or peers, the allegations should be documented in an incident report and submitted to the resident’s social worker and to the provincial licensing specialist, as required.
- The allegations must be reported immediately.
- The resident’s social worker is responsible for following up and completing the investigation if the allegation was not previously known or investigated.
- If the allegation involves a former foster parent, staff member of another agency/facility or staff member of the residential child care facility, the allegations should be documented in an incident report and submitted to the resident’s social worker and the provincial licensing specialist. The PIU must be initially notified (verbally or written) within one working day. A provincial investigation specialist referral form must be completed and submitted via fax, email or telephone within 5 working days.
- The provincial investigations specialist will be responsible for following up and completing all investigations involving staff members of agencies or facilities.
- The resident’s social worker must ensure that the allegations involving former foster parents are investigated. This investigation may be done by the social worker or by a specialized abuse worker within that agency.
- The supervisor of the residential child care facility will be notified.
- The staff member may be suspended until the investigation is completed. Residential child care facilities can consult with the provincial investigations specialist to help with this decision.
- If the provincial investigations specialist deems the matter to be a potentially criminal matter, it will be referred to law enforcement and a joint investigation will be started by child welfare (provincial investigations specialist) and appropriate law enforcement.
Role of Child Care Facility Staff

Youth care staff may hear about physical or sexual abuse from children and youth in their care. It is also possible that you may observe incidents that are of concern or are present when a child is making an allegation or threatening to make one. The best interests of children are the paramount consideration. For professionals, especially those in positions of trust, such as youth care workers, there are higher expectations surrounding their behaviour with children and youth. They are also obligated to report children who may need protection. The duty to report applies even where the person has acquired the information through the discharge of professional duties or within a confidential relationship (ex: doctor-patient relationship). The only exception is a lawyer acquiring this information within a solicitor-client relationship.

When listening to an allegation or when noting concerns, it is the role of the staff to document the information and report it. It is the role of the investigator or worker to further investigate and determine if abuse has occurred.

It is important to write down all the information that has been given. Do not probe for details of the abuse because the child will be interviewed further during the investigation. Further questioning can be detrimental to the investigation. It is important that the information includes sufficient detail to describe what was actually said and done. Use the exact wording, whenever possible.

The residential child care facility may need to take additional steps to ensure the safety of the child. This may include consulting the facility supervisor, the child’s social worker or the agencies’ after hours staff.

Intake

Data Collection

The Provincial Investigation Referral form (Appendix J) has been devised to capture specific information that is necessary for the provincial investigations specialist to proceed with the investigation. Although some of this information about the allegation may be collected on the Incident Report, the Provincial Investigation Referral form also needs to be completed. A copy of the incident report can be referred to and attached to the referral form.

Report of Conclusions

In compliance with subsection 76(3) of The Child and Family Services Act and the Child Abuse Regulation, the PIU shares detailed information about a child abuse investigation only with child and family services agencies and police units directly involved in a case. The branch may also share details with a residential child care facility, involved when necessary for the protection of other residents in the facility.

When the investigation is completed, one of the following conclusions must be reached:

a. The allegation was substantiated (ex: sufficient evidence to support it), thus Abuse Occurred.

b. The allegation was not substantiated (ex: insufficient evidence) thus No Abuse.

c. There was insufficient evidence to prove the allegation of abuse, but it is likely that inappropriate behaviour did occur. No Abuse but with recommendations that define the areas of concern.

d. If the matter is deemed to require criminal investigation, there may be a finding based on the criminal code and the court process and a second finding based on The CFS Act.
It is possible that an investigation could find that there was not enough evidence to prove that abuse occurred, even though the alleged offender’s behaviour may be considered inappropriate – as noted in (c). If this is the case, recommendations should be made about how to change the behaviour and enhance safety for the child.

Consistent with clauses 18.4(2) and (3) of the act, the branch may report the conclusions of its investigation to other parties involved or may rely on the intervening agency to do so.

As a matter of policy, the provincial investigations specialist may send a letter summarizing the findings and conclusions to the:

- alleged abuser
- person’s employer, when applicable
- child’s parent (ex: for children not in care of an agency)
- guardian agency (ex: if the child is in agency care)
- appropriate agency child abuse co-ordinator
- the child, if of reasonable age to understand (ex: emancipated youth)

**Agency and Facility Personnel Records** – pursuant to CFS abuse investigation standards, upon receiving information on the results of a child abuse investigation conducted by the Child Protection Branch, a child and family services agency or residential child care facility, as the case may be, ensures a notation is made in an employee’s personnel file or volunteer’s file as to the results of the investigation and any disciplinary action taken.

**Closing the File**

Following completion of the investigation, the provincial investigations specialist may close the file after the:

- investigation is complete and an outcome determined, including the conclusion of any criminal proceedings
- legislative requirements have been met
- issue of conflict of interest has been sufficiently dealt with
- placing agency has an appropriate plan for the child’s protection and treatment as a result of the allegations
- facility that employs the accused has responded in an appropriate, fair manner to the accused and if necessary, supports or training are provided (if necessary) for either the accused or the staff at the facility where the abuse occurred
- facility, employer, guardian agency or parent and licensing agency are aware of the conclusion and recommendations resulting from the investigation