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**Investigation Policy and**

**Procedure**

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**Approval Date: 1/11/2024 (Senior Managers of TPP)**

**Last Review 1/11/2024**

**Next Review 01/11/2025**

#### **Introduction**

Incidents and accidents occur in any workspace, school or walk or life. Within The Peaceful Pony (TPP), incidents and accidents can and will occur, no matter how much we may try or wish to prevent them. We cannot always stop the incident or accident occurring, but we can do our best to rectify and harm or trauma caused as well as learn from the findings from an incident. This is what will help us “learn lessons” and help improve our practice and quality of service delivery. Children, families and our staff wellbeing are first and foremost our absolute priority; if we do not learn from incidents/accidents we will always be ultimately failing not only as an organisation but also the children, families and staff that our central to our work.

**Process of Feedback and Investigation**

The Peaceful Pony will receive comments, compliments and concerns through the delivery of our work (please also see Comments, Compliments and Concerns Policy and Procedure).

When information is fed back, there may be areas of comment or concerns which should always be brought to the Senior in Charge and the Directors. When this does occur it will be important to consider what should be done with this feedback, for example if further actions need to take place. The process of ascertaining this should include the following initial investigation-

1. Gather evidence from all sides.
2. See if there is a case to answer.
3. Make sure everyone is treated fairly.
4. Help TPP seniors to see what should happen next.
5. At any stage, The Peaceful Pony can still look at whether:
* the formal procedure needs to carry on.
* the issue can be resolved informally instead.

Following an initial scope, if a full investigation is required, the following should occur-

* Completing and gathering of all incident/ accident forms
* Senior Lead in charge of the day to be notified. Also, Director of Services/Operations.
* TPP will notify the child’s parent/ carer usually after the incident has occurred.
* TPP will contact relevant school/ Local authority/ local child protection/safeguarding children’s agencies of any serious accident or injury to, or serious illness of, or death of, any child whilst in their care, and act on any advice given.
* Support for all other children/ debrief.
* Debrief and support for Staff (including ongoing Safeguarding supervision and clinical supervision
* Review of all care plans, risk assessment and support plans.

It is important to consider that if there is any information shared which may also be answerable to other key services or legal processes, information should always be shared by The Peaceful Pony to the appropriate system. This is also pertinent if The Peaceful Pony should become aware of any concerns with boundaries of appropriate behaviour/ conduct of staff (Please also see Staff induction/ Staff code of Conduct and Safeguarding Children policy). In accordance with statutory guidance and the Essex [SET Procedures (ESCB)](https://www.escb.co.uk/2423) in respect of allegations against an adult working with children (in a paid or voluntary capacity). Where an allegation against a member of staff is received, the SET procedures (ESCB, 2022) require this to be reported to the Duty Local Authority Designated Officer (LADO) at the Essex Workforce Allegations Team at LADO@essex.gov.uk. This should be done by the Designated safeguarding lead or Senior lead in charge within one working day (or sooner via 03330 139797 if **immediate safeguarding is required**). The LADO will then advise on how to proceed and whether the matter requires Police and / or Social Care involvement. They will also advise about speaking to children and young people, parents and HR. **The setting should not carry out any investigation before speaking to the LADO.**

**When and how to investigate Plan**

The need to investigate should be considered if there are concerns surrounding breeches of governance for staff, health and safety breeches, serious injury or death (this is not an exhaustive list). The need to investigate the exploration to the causes, consequences and learning from the event will be undertaken by Senior leadership team who have undertaken appropriate training. The Investigation should take the shortest amount of time possible. There will be aims for this to be completed within ten working days; however this may not always be possible due to complexities. There will sometimes be no ‘time span’ allocated to an end date. but no more than

An investigation will-

* Gather evidence from all sides.
* See if there is a case to answer.
* Make sure everyone is treated fairly.
* Help TPP/ LA/ Commissioners/ Parents etc to see what should happen next.
* At any stage, The Peaceful Pony can still look at whether:
* the formal procedure needs to carry on.
* the issue can be resolved informally instead.

TPP Senior Leader in charge/Directorinvestigating should start the process by making an investigation plan and completing relevant paperwork.

This can include-

* what needs to be investigated?
* who is carrying out the investigation?
* 'witnesses' – anyone who needs to be spoken with to find out about the issue.
* any sources of evidence, for example work records, emails or recordings.
* any time limits, for example staff going on leave.
* timeframes
* other policies or organisation guidelines which should be followed.
* whether the Senior Lead/Director investigating is expected to give recommendations at the end of the investigation
* setting out the importance of confidentiality
* any other relevant points or information

A clear plan can help to:

* make the investigation as quick and easy as possible.
* make clear exactly what needs to be done.
* make sure the process is full and fair.
* avoid negative effects on staff or the Organisation.

**Witness statements**

Witnesses can give important evidence and help build an objective picture that occurred during the accident or incident. Each witness statement may also help provide guidance to the outcome of an investigation. The persons investigating will conduct meetings with each witness, notes will be taken during this by persons investigating/ or if appropriate a script of the persons subjective views they witnessed during the event in question. All Witnesses will be asked to sign their notes.

In some cases, witnesses may not need to attend a meeting-

* if the witness is not an employee, for example a customer or client.
* only needs to give very simple information.
* is ill and cannot come to an investigation meeting.

The person investigating should ask the witness to write:

* their name and, where applicable, job title
* the date, place and time of any relevant issues
* what they saw, heard or know
* the reason why they were able to see, hear or know about the issues.
* answers to specific questions, where necessary
* the date and time of writing their statement.
* their signature

The witness should have reasonable time to give the statement.

**Talking to many witnesses**

If a large number of people witnessed the same incident, the person investigating should:

* talk to some of the witnesses.
* check whether they're broadly saying the same thing

The person investigating does not have to talk to all witnesses, unless either of the following apply:

* they feel they're not getting enough information.
* there are significant differences in what the witnesses say

**Taking records**

The person investigating can make audio recordings of interviews or assign a person to take notes, depending on:

* what is most appropriate or possible
* what the organisation's policy or rules allow
* if the person being interviewed agrees

**Sharing information and confidentiality**

When getting information from a witness, it's a good idea to get their consent to be able to share it if necessary. For example, in case other people working on the investigation need to look at the information. If someone believes they've been named in a report, they have the right to see any parts that:

* have information about them
* depended on information they gave

They should not be allowed to see private information about other people.

The Peaceful Pony will keep investigation reports for a period of 5 years, in case there are any questions in the future. If the report includes people's details, the employer should store it securely and only allow access when necessary. Anyone who has access needs to follow data protection law (UK GDPR). The report should be securely disposed of once it's no longer needed or is out of date. For example, it could be shredded.

**After the investigation**

If TPP or person investigating feels they need more information, they can go back and investigate again. They should:

* try to do this in reasonable time.
* tell the employee about any delays completing the investigation.

**Making an investigation report**

When there's enough information and the investigation is finished, The Peaceful Pony will present a written report. This investigation will be shared with appropriate commissioners and other parties as relevant. Recommendation for next steps may be provided by the person who have conducted the investigation.

**Giving recommendations**

If the person investigating is to give recommendations at the end of the investigation, they should recommend one of the following:

* formal action- which may be changes to organisations policies and procedures, further investigations. Changes to risk assessment, care plans, support plans.
* informal action- training, coaching and also reflection with children/families/ commissioners.
* no further action

**Following a Fair Procedure**

The Peaceful Pony must ensure a fair procedure is always followed. The investigation process is an important part of this. If The Peaceful Pony does not carry out a reasonable investigation, any decisions made in the disciplinary or grievance case are likely to be unfair, and legal Action can be undertaken. Investigations are covered by the**[Acas Code of Practice on disciplinary and grievance procedures](https://www.acas.org.uk/acas-code-of-practice-on-disciplinary-and-grievance-procedures%22%20%5Co%20%22Acas%20Code%20of%20Practice%20on%20disciplinary%20and%20grievance%20procedures)** which have helped form this policy and procedure.

**Training and Role of Senior Leaders**

Traininghas been undertaken by all seniors Leaders using ACAS training and conducting Investigations. Both Directors are also trained in further Systems Approach’s to Investigation and Learning. Only staff that have undertaken the above training will be allowed to undertaken investigations, this is to ensure a high-quality progress of gathering information and outcome.

If there are concerns raised by others that effects an individual who is trained to undertake an investigation, that person will not be permitted or made privy to any confidential information. If concerns regarding the whole Senior Team/ Directors are raised, external investigators will be required to conduct a fair and confidential investigation. It must also be considered that there may be conflicts amongst investigators which could mean investigations are not impartial. It must be considered, in some cases, investigations will need to be undertaken by a complete un-bias investigator to avoid any potential bias. This should be a member of The Peaceful Pony Committee or Volunteer senior team.

**Process and Procedure for Investigating with TPP Employees**

If, based on information, The Peaceful Pony decided to investigate a disciplinary or grievance issue, this should start as soon as possible. This will ensure we treat our employee fairly. Consideration from be given if concerns being raised will meet probability for a “disciplinary” or a “grievance”.

* In a disciplinary case, The Peaceful Pony will assign one Senior Leader and One Director to conduct all matters relating to the investigation process. Where possible, the Senior Leader and Director should ensure they follow each step of the process throughout, this will include the investigation; the disciplinary hearing and outcome; the appeal hearing (if an appeal is raised). The Senior Lead and Director handling the disciplinary hearing will have the authority to decide on the outcome.
* In a grievance case, the person hearing the grievance will be required to investigate the issue.

**Telling the Employee**

A Director or Senior Lead who will be investigating should tell the employee with the disciplinary or grievance issue as soon as they decide to open an investigation. This is unless there are concerns or a risk that the employee might tamper with evidence or influence witnesses. In this case, The Peaceful Pony Directors/Senior Lead should wait until there is less risk of this.

When The Peaceful Pony tells the employee they are opening an investigation, it’s a good idea to explain:

* why they're carrying out an investigation.
* who will be carrying it out
* what they're going to do
* that they'll need to talk to any witnesses
* how long it could take
* what will happen next, for example a meeting
* that everything will be kept confidential

Directors/Senior Leaders will use letters for:

* disciplinary cases – informing an employee they are the subject of an investigation.
* grievance or disciplinary cases – inviting an employee to an investigation meeting.

An investigation can be stressful for the employee in either disciplinary or grievance cases. At every stage, The Peaceful Pony will consider the wellbeing and mental health of their employees and offer support where needed.

**Deciding whether to suspend an employee.**

If there's a serious issue or situation, The Peaceful Pony might consider suspending someone while they investigate, though, each situation carefully. Suspension will only be needed in some situations.

If The Peaceful Pony feel they need to suspend someone, it's important to consider:

* alternative options to suspension
* the wellbeing of the person they're thinking of suspending – being suspended can be stressful and affect someone's mental health.

In a disciplinary or grievance investigation, the Senior Lead/Director investigating should do their best to:

* be fair and objective.
* follow any policies or guidelines your organisation might have.
* get as much information on the case as is reasonable.
* not try to prove guilt but get balanced evidence from both sides.
* keep the case confidential.
* In a disciplinary procedure, the person investigating should be finding out if there is an issue that needs to be addressed. They should not be trying to prove guilt.

**How long an investigation needs to take.**

While an investigation should be completed as quickly as possible, it always needs to be thorough and fair. Some investigations might take longer depending on the case and how many people need to give information. For example, a simple case might only take a day to gather enough information. A more complicated case could take several week or months. The Peaceful Pony will aim to complete each investigation within a shortest timeframe possible; there will be agreed timescales provided to all involved to make a timeframe clear

**Getting Physical Evidence**

The person investigating should get all the information they reasonably can and need for the case. They should work out what physical evidence is needed based on:

* what's laid out in the investigation plan
* what sources of information they can use
* any time limits, for example records getting deleted

More evidence might come to light as the investigation goes on, so the person investigating should allow for this.

Types of physical evidence could include:

* emails
* paperwork
* receipts
* computer records
* phone records
* CCTV recordings
* attendance records

The person investigating must consider the ways they can get information and:

* follow the law – for example, on data protection or [employment contracts](https://www.acas.org.uk/employment-contracts)
* respect the employee's right to privacy

You can find out more on:

* [data protection on the Information Commissioner's Office (ICO) website](https://ico.org.uk/for-organisations/guide-to-data-protection/)
* gathering evidence in the right way in the [Acas guide to conducting workplace investigations](https://www.acas.org.uk/acas-guide-to-conducting-workplace-investigations%22%20%5Co%20%22Acas%20guide%20to%20conducting%20workplace%20investigations)

The person investigating should keep a written record of how and why they got any evidence.

**Holding Investigation meetings**

In both disciplinary and grievance investigations, the person investigating might also need to get information from:

* the employee
* 'witnesses' – other employees involved
* other witnesses, for example clients or customers

If you need to invite someone to an investigation meeting, you should:

* let them know in writing – for example, a letter or email
* confirm the date, time and location
* give them reasonable notice

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## **The right to be accompanied.**

'The right to be accompanied' means that by law, an employee or worker can bring a 'companion' (relevant person):

* to any meetings – in a [grievance procedure](https://www.acas.org.uk/grievance-procedure-step-by-step)
* to a meeting or hearing that will give or confirm a formal warning or other disciplinary action – in a [disciplinary procedure](https://www.acas.org.uk/disciplinary-procedure-step-by-step)

In a disciplinary investigation meeting, there is no legal right to be accompanied but it's good practice for employers to allow it.

### **If there's the right to be accompanied**

If the employee or worker has the right to be accompanied, they must choose their companion from one of the following:

* someone they work with
* a workplace trade union representative who's certified or trained in acting as a companion
* an official employed by a trade union

Under discrimination law, The Peaceful Pony will make adjustments for disabled employees. This might mean allowing someone else to attend, for example a support worker or someone with knowledge of the disability and its effects. The Peaceful Pony can, but do not have to, allow companions who do not fall within the above categories. For example, some employment contracts might allow for a professional support body, partner or legal representative.

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**If an employee cannot attend an investigation meeting**

If an employee is invited to an investigation meeting but they do not attend, the person investigating should rearrange the meeting. The Peaceful Pony or person investigating should see if it would help to make other arrangements.

For example, if the employee is off with stress and is worried about coming to the workplace, they could hold the meeting somewhere else. If the employee is too sick, or not able or willing to attend, the person investigating will need to look at all available evidence and make a reasonable decision.

They could also look at:

* the seriousness of the disciplinary or grievance issue
* any rules your organisation has about not attending investigation meetings
* how The Peaceful Pony dealt with similar cases in the past
* getting a medical opinion on whether the employee is fit to attend the meeting – with the employee's permission

The Peaceful Pony may decide the investigation should continue without the employee. If this happens, The Peaceful Pony should tell the employee. Regardless, The Peaceful Pony will ensure the investigation is carried out in a full and fair way.

**Looking after employees' wellbeing and mental health**

Being under investigation can be very stressful, so it's important The Peaceful Pony will ensure the wellbeing and mental health of their employees. Looking out for employees' wellbeing and offering support can help prevent:

* absence
* mental health problems arising
* existing mental health conditions getting worse

For example, The Peaceful Pony will keep in regular contact with the employee. They could also arrange any meetings in a more private and comfortable location if this would help an employee.

**Taking records**

The person investigating can make audio recordings of interviews or assign a person to take notes, depending on:

* what is most appropriate or possible
* what the organisation's policy or rules allow
* if the person being interviewed agrees

**Sharing information and confidentiality**

When getting information from a witness, it's a good idea to get their consent to be able to share it if necessary. For example, in case other people working on the investigation need to look at the information. The employee under a disciplinary investigation, or who has raised a grievance case, should be given a copy of any written evidence including witness statements.

If someone believes they've been named in a report, they have the right to see any parts that:

* have information about them
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**Giving recommendations**

If the person investigating is to give recommendations at the end of the investigation, they should recommend one of the following:

* formal action
* informal action
* no further action

### **Formal action**

Formal action could be:

* to initiate a disciplinary hearing
* changes to an organisation's policy or procedure
* further investigation into other matters that were found

### **Informal action**

Informal action could be:

* training or coaching for parties involved
* counselling for parties involved
* mediation for parties involved
* notification that further similar action might end in disciplinary action

### **No further action**

The outcome of the investigation might be that no further action is needed. However, the person investigating might still suggest anything that could help the organisation and the people involved, for example:

* counselling
* mediation
* another form of support

**Carrying on with the disciplinary or grievance procedure**

Once there is more information, The Peaceful Pony will always try to ensure the concerns, where possible can be resolved informally. After an investigation, The Peaceful Pony might find there's no evidence to carry on with the disciplinary or grievance procedure. In this case, they should end the procedure and tell the employee in question there'll be no further action. The Peaceful Pony might find there's an issue that cannot be resolved informally. In this case they should follow the next steps in the disciplinary or grievance procedure.

**Appendix of Supporting Information**

**Investigation Plan**

[Amend as required]

|  |  |
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| **Investigator** |  |
| **Terms of reference** |  |
| **Provisional time-frame** |  |
| **Policies and procedures to review and follow** |  |
| **Issues that need to be explored/clarified** |  |
| **Sources of evidence to be collected** |  |
| **Persons to be interviewed** (including planned order of interviews) |  |
| **Investigation meetings further arrangements**(When/where/notes to be taken by) |  |
| **Persons to supply own statement** |  |
| **Investigation meetings to be completed by** |  |
| **Collection of evidence to have been completed by** |  |
| **Further considerations** |  |