

SECTION 4 - RESPONDING TO CONCERNS

Why it is important to respond to concerns

It takes considerable courage for a child or adult to disclose abuse. Disclosures need to be handled very carefully and sensitively to avoid causing further distress to the child.

All concerns must be responded to in a way that ensures that a child receives appropriate help and support and to ensure that appropriate action is taken against those who pose a risk to children and to protect not only the child involved but all other children.

Robust procedures for responding to concerns will:

- help to avoid those receiving information from engaging in judgements.
- reassure those who report concerns that an appropriate course of action will ensue.
- support those charged with managing concerns by providing them with a step-by-step process to follow.
- safeguard the rights of those against whom complaints or allegations have been made.

It is not the job of anyone in The Scottish Sub Aqua Club to decide whether or not a child has been abused. It is however, everyone's responsibility to report concerns

Confidentiality

The following is taken from Sharing Information About Children at Risk: A Guide to Good Practice (Scottish Executive, 2003).

Information provided to organisations should remain confidential unless permission has been given to share the information by the individual concerned or the safety of that person or another person may be at risk.

If there is a reasonable concern that a child may be at risk of significant harm, this will always override a professional or organisational requirement to keep information confidential. It is good practice to inform parents and children about the kind of situations which may lead to them having to share information with other agencies.

Defamation

Concerned adults are sometimes reluctant to report concerns about abuse for fear that the person suspected will sue them for defamation if the allegation turns out to be unfounded.

To be defamatory a statement must first of all be untrue. Even if subsequently shown to be untrue, the statement will be protected by 'qualified privilege' if it is made to the appropriate authority "in response to a duty, whether legal, moral or social or in the protection of an interest" (Norrie K, Defamation and Related Actions in Scots Law, 1995). Unjustified repetition of the allegations to other persons will not be protected by privilege.

The qualification on privilege refers to statements made by malice. If a statement, even to the appropriate authority, can be shown to be motivated by malice, then an action of defamation could be successful.

(Taken from Guidelines for Child Protection Prepared for the Independent Schools in Scotland, Kathleen Marshall, Second Edition, January 1997)

PROCEDURES FOR RESPONDING TO CONCERNS ABOUT A CHILD

These procedures apply to all staff and volunteers involved in *The Scottish Sub Aqua Club*.

3.1 Concerns about the General Welfare of a Child (NOT involving concerns about child abuse)

The Scottish Sub Aqua Club is committed to working in partnership with parents whenever there are concerns about a child. Parents have the primary responsibility for the safety and well being of their children.

In most situations, not involving the possibility of the abuse of a child, concerns should be discussed with parents. For example, if a child seems withdrawn, he/she may have experienced an upset in the family, such as a parental separation, divorce or bereavement. Common sense is advised in these situations.

Any significant, untoward or unusual incidents which cause concern about the welfare of a child should be recorded on the Significant Incident Form (see page 68) and reported to *The Scottish Sub Aqua Club* Child Protection Officer as soon as possible. Parents should also be informed of the circumstances as soon as possible.

Advice should be sought from *The Scottish Sub Aqua Club* Child Protection Officer if there is any uncertainty about the appropriate course of action where there are concerns about the general welfare of a child.

3.2 What to Do if a Child Tells You about Abuse

No member of The Scottish Sub Aqua Club shall investigate allegations of abuse or decide whether or not a child has been abused.

Allegations of abuse must always be taken seriously. False allegations are very rare. If a child says or indicates they are being abused or information is obtained which gives concern that a child is being abused, the information must be responded to on the same day in line with the following procedure.

3.2a Respond

- React calmly so as not to frighten the child.
- Listen to the child and take what they say seriously. Do not show disbelief.
- Reassure the child they are not to blame and were right to tell someone.
- Be aware of interpreting what a child says, especially if they have learning or physical disabilities which affect their ability to communicate or English is not their first language.
- Do not assume that the experience was bad or painful - it may have been neutral or even pleasurable.
- Avoid projecting your own reactions onto the child.
- Avoid asking any questions. If necessary only ask enough questions to gain basic information to establish the *possibility* that abuse may have occurred. Only use open-ended, non-leading questions e.g. Who? Where? When?
- Do not introduce personal information from either your own experiences or those of other children.

Avoid:

- Panicking.
- Showing shock or distaste.
- Probing for more information than is offered.
- Speculating or making assumptions.

- Making negative comments about the person against whom the allegation has been made.
- Approaching the individual against whom the allegation has been made.
- Making promises or agreeing to keep secrets and giving a guarantee of confidentiality.

Where there is uncertainty about what to do with the information, **The Scottish Sub Aqua Club** Child Protection Officer must firstly be consulted for advice on the appropriate course of action.

If **The Scottish Sub Aqua Club** Child Protection Officer is unavailable or an immediate response is required the police and social work services must be consulted for advice. They have a statutory responsibility for the protection of children and they may already hold other concerning information about the child. Record any advice given.

If you are concerned about the *immediate* safety of the child:

Take whatever action is required to ensure the child's immediate safety.

Pass the information immediately to the police and seek their advice.

3.2b Record

Make a written record of the information as soon as possible using the Significant Incident Form (AND/OR Child Protection Referral Form- see page 68), completing as much of the form as possible. The following information will help the police and social workers decide what action to take next:

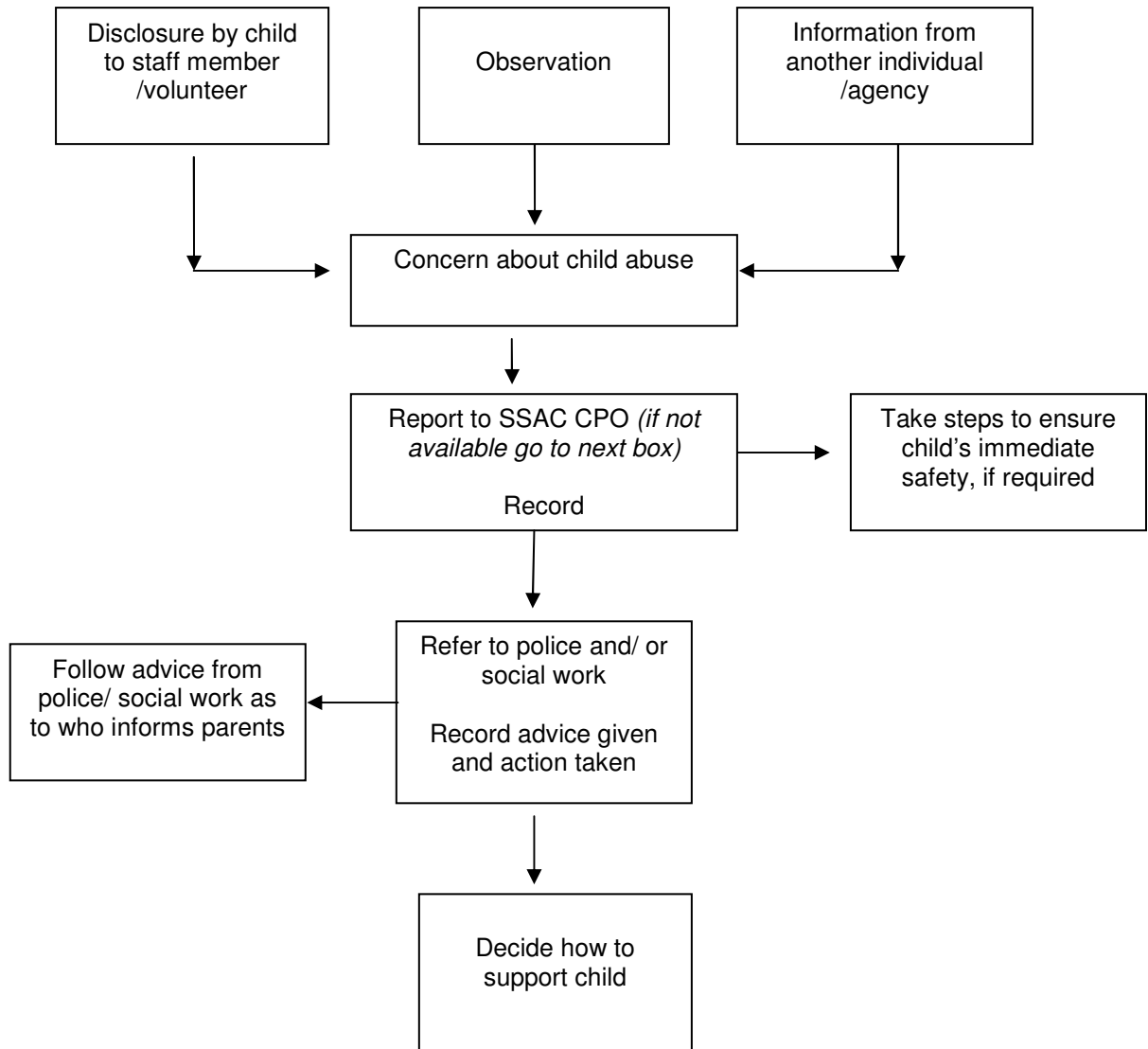
- Child's name, age and date of birth.
- Child's home address and telephone number.
- Any times, dates or other relevant information.
- Whether the person making the report is expressing their own concern or the concerns of another person.
- The child's account, if it can be given, of what has happened and how any injuries occurred *using the child's own words*.
- The nature of the concern (include all of the information obtained during the initial account e.g. time, date, location).
- A description of any visible (when normally dressed) injuries or bruising, behavioural signs, indirect signs (do not physically examine the child).
- Details of any witnesses.
- Whether the child's parents have been informed.
- Details of anyone else who has been consulted and the information obtained from them.
- If it is not the child making the report, whether the child has been spoken to, if so what was said *using the child's own words*.
- The child's views on the situation.

If completing the form electronically, do not save copies to the hard drive or floppy disk. Print a copy, sign and date and then delete immediately. Pass the record to social work services or the police and to the **The Scottish Sub Aqua Club** Child Protection Officer that day.

3.2c Sharing Concerns with Parents

Where there are concerns that the parent(s) may be responsible for or have knowledge of the abuse, sharing concerns with the parent(s) may place the child at further risk. ***In such cases advice must always firstly be sought from the police or social work services as to who informs the parents.***

RESPONDING TO CONCERNS ABOUT CHILD ABUSE



PROCEDURE FOR RESPONDING TO CONCERNS ABOUT THE CONDUCT OF A MEMBER OF STAFF OR VOLUNTEER

Concerns about the Conduct of a Member of Staff

This section of the procedures should be read in conjunction with **The Scottish Sub Aqua Club** Complaints, Performance Management and Disciplinary Procedures. Section 3.2 (above) 'What to do if a Child tells you about Abuse', applies whether the information is about a member of staff or someone not connected in any way with the sport. The following section details the procedure to be followed where the concern is about a member of staff.

These procedures aim to ensure that all concerns about the conduct of a member of staff are dealt with in a timely, appropriate and proportionate manner. No member of staff of **The Scottish Sub Aqua Club** in receipt of information that causes concern about the conduct of a member of staff towards children shall keep that information to himself or herself, or attempt to deal with the matter on their own.

In the event of an investigation in to the conduct of a member of staff all actions will be informed by the principles of natural justice:

- Employees will be made aware of the nature of concern or complaint.
- Where the concern is about possible child abuse, advice will firstly be taken from the police as to what can be said to the employee.
- An employee will be given an opportunity to put forward their case.
- **The Scottish Sub Aqua Club** will act in good faith, ensure the matter is dealt with impartially and as quickly as possible in the circumstances.

In all cases where there are concerns about the conduct of a member of staff towards children, the welfare of the child will be the paramount consideration.

At any point in the management of concerns about the conduct of a member of staff, advice may be sought from the police or social work services.

4.1 Initial Reporting of Concerns

Any concerns for the welfare of a child arising from the conduct of a member of staff must be reported to the line manager/ **The Scottish Sub Aqua Club** Child Protection Officer on the day the concern arises, as soon as practically possible.

Where the concern is about the line manager or the Child Protection Officer it must be reported to the Chairman or National Diving Officer.

4.2 Recording

Concerns must be recorded using the Significant Incident Form (see page 68) as soon as possible. Reporting the concerns to the line manager/ **The Scottish Sub Aqua Club** Child Protection Officer should **not** be delayed by gathering information to complete the form or until a written record has been made.

All subsequent actions taken and reasons for decisions shall be contemporaneously recorded on the Significant Incident Form, signed and dated by the line manager/ **The Scottish Sub Aqua Club** Child Protection Officer or the person appointed to manage the response to the concerns. Where Performance Management Procedures/ Disciplinary Procedures are invoked, a written record will be made of all actions and reasons for decision. Guidance on the storage, sharing and retention of such records is contained in the relevant procedure.

4.3 Establishing the Basic Facts

Once the concerns have been reported, the line manager/ **The Scottish Sub Aqua Club** Child Protection Officer will:

- Establish the basic facts
- Conduct an initial assessment of the facts in order to determine the appropriate course of action.
- Consult external agencies such as the police and social work services for advice at any time. This is important because they may hold other important information which, when considered alongside the current concerns builds a significant picture of concern.

4.4 Conducting the Initial Assessment

The line manager/ **The Scottish Sub Aqua Club** Child Protection Officer will conduct the initial assessment.

The purpose of the initial assessment is to clarify the nature and context of the concerns. It should determine whether there is reasonable cause to suspect or believe that a child has been abused/ harmed or is at risk of abuse or harm. Every situation is unique so guidance cannot be prescriptive.

- Where the established facts support a concern about possible abuse, the initial assessment will not form part of the disciplinary investigation.
- Subject to the nature and seriousness of the situation, if it is not clear at this stage whether a criminal offence may have been committed the member of staff *may* be approached as part of the information gathering process.
Where the nature and seriousness of the information suggests that a criminal offence *may* have been committed, or that to assess the facts may jeopardise evidence, *advice will be sought from the police before the member of staff is approached.*
- An initial assessment of the basic facts may require the need to ask a child(ren) some basic, open-ended, non- leading questions *solely with a view to clarifying the basic facts.* It may also be necessary to ask similar basic questions of other children, or other appropriate individuals.
- Interviewing children about possible abuse and criminal offences is the sole remit of specially trained police officers and social workers. Questioning of children by those conducting an initial assessment should always be avoided as far as possible. If it is necessary to speak to the child in order to clarify the basic facts best practice suggests that consent from the parent be obtained.

Possible outcomes of initial assessment:

- (i) No further action (facts do not substantiate complaint).
- (ii) Situation is dealt with under procedures to manage poor practice; and/or,
- (iii) Disciplinary investigation (by the Scottish Sub Aqua Club).
- (iv) Child protection investigation (jointly by police and social work services).
- (v) Criminal investigation (by the police).
The results of a criminal investigation may well influence the disciplinary investigation, but not in all cases.
- (vi) Civil proceedings (by the child/family who alleged abuse).

4.5 Initial assessment supports concerns about poor practice and/or misconduct (but not possible child abuse)

The line manager/ **The Scottish Sub Aqua Club** Child Protection Officer will deal with the situation in line with **The Scottish Sub Aqua Club** Performance Management Procedures and/or Disciplinary Procedures.

Pending the outcome of any investigation conducted under Performance Management Procedures or Disciplinary Procedures, precautionary suspension will be considered in all cases where there is significant concern about the conduct of a member of staff towards children (see section 4.7). The welfare of children will be the paramount concern in such circumstances.

Where the circumstances meet the referral criteria set out in the Protection of Children (Scotland) Act 2003 section 4.11, **The Scottish Sub Aqua Club** has a duty to make a referral to Scottish Ministers (see section 4.11).

4.6 Initial assessment supports concerns about possible child abuse

Where the initial assessment of information gives reasonable cause to suspect or believe possible child abuse the line manager/ **The Scottish Sub Aqua Club** Child Protection Officer will refer the concerns to the police and/or social work services as soon as possible on the day the information is received.

The line manager/ **The Scottish Sub Aqua Club** Child Protection Officer will make a written record of the name and designation of the social worker or the police officer to whom the concerns were passed together with the time and date of the call, in case any follow up is required.

Referrals to the police/social work services will be confirmed in writing by the line manager/ **The Scottish Sub Aqua Club** Child Protection Officer within 24 hours. A copy of the Significant Incident Form should be provided to the police/ social work services on request.

Appropriate steps will be taken to ensure the safety of the child(ren) or who may be at risk. The parents of the child(ren) involved will be informed as soon as possible following advice from the police/ social work services.

Advice will firstly be obtained from the police/social work services about informing the staff member involved about the concerns. If the advice is to inform the staff member, they will be told that information has been received which may suggest an allegation of abuse. As the matter will be *sub judice* no details will be given unless advised by the police. All actions will ensure the best evidence is preserved for any criminal proceedings while at the same time safeguarding the rights of the employee.

The Scottish Sub Aqua Club will take all reasonable steps to support a member of staff against whom an allegation of abuse has been made.

4.7 Precautionary Suspension

Suspension is not a form of disciplinary action. The staff member involved may be suspended whilst an investigation is carried out.

Suspension will be carried out by the Board or other sub-committee in accordance with **The Scottish Sub Aqua Club** Disciplinary Procedures. At the suspension interview the member of staff will be informed of the reason for suspension (within the confines of sharing information) and given the opportunity to make a statement should they wish to do so.

Notification of the suspension and the reasons will be conveyed in writing to the staff member in accordance with **The Scottish Sub Aqua Club** Disciplinary Procedures.

4.8 Disciplinary Investigation

Following advice from the police, cases that also involve a criminal investigation, will not preclude disciplinary action being taken provided sufficient information is available to enable the line manager/**The Scottish Sub Aqua Club** Child Protection Officer to make a decision and that to do so does not jeopardise the criminal investigation.

4.9 False or Malicious Allegations

In the very exceptional circumstances that an investigation establishes an allegation is false, unfounded or malicious:

- The staff member involved will receive an account of the circumstances and/or investigation and a letter confirming the conclusion of the matter. They may wish to seek legal advice.
- All records pertaining to the circumstances and investigation will be destroyed.
- The line manager/ **The Scottish Sub Aqua Club** Child Protection Officer will take all reasonable steps to support the individual in this situation.
- In these circumstances **The Scottish Sub Aqua Club** will review the child's participation in Sub Aqua.
- Data collected for the investigation will be destroyed in accordance with the requirements of the Data Protection Act 1998.

4.10 Historical Allegations of Abuse

Allegations of abuse may be made some time after the event e.g. an adult who was abused as a child by someone who is still currently working with children. These procedures will be followed in the event of an allegation of historical abuse.

4.11 Protection of Children (Scotland) Act 2003

The Scottish Sub Aqua Club will refer to Scottish Ministers the cases of any member of staff who has (whether or not in the course of their role within the Scottish Sub Aqua Club) harmed a child or placed a child at risk of harm **AND** as a result:

1. **The Scottish Sub Aqua Club** has dismissed the staff member.
2. The staff member would have been dismissed as a result of the incident had they not resigned, retired or been made redundant.
3. **The Scottish Sub Aqua Club** has transferred the staff member to a position in **The Scottish Sub Aqua Club** which is not a child care position.
4. The staff member would have been dismissed or considered for dismissal where employment was not due to end at the expiry of a fixed term contract; or,

The staff member would have been dismissed or considered for dismissal had the contract not expired.

5. **The Scottish Sub Aqua Club** will also refer the case of a staff member where information become available after the staff member has:

- been dismissed by **The Scottish Sub Aqua Club**,
- resigned, retired or been made redundant,
- been transferred to another position in **The Scottish Sub Aqua Club** which is not a child care position; and,

The Scottish Sub Aqua Club form the opinion (on the basis of the information) that they would have dismissed or considered dismissing the staff member on such grounds, had the information been available at the time of resignation/ redundancy/ retirement/ transfer.

Where **The Scottish Sub Aqua Club** receives information that a staff member who holds a child care position has been fully listed on the Disqualified from Working with Children List, the staff member will be removed from the child care position.

4.12 Media

All media enquiries relating to the conduct of a member of staff will be referred to **The Scottish Sub Aqua Club** Chairman or Company Secretary and/or the Child Protection Officer.

Concerns about the Conduct of Volunteers

The procedures outlined in section 4 apply to the management of concerns about the conduct of volunteers.

RESPONDING TO CONCERNS ABOUT THE CONDUCT OF A MEMBER OF STAFF OR VOLUNTEER

