



NON - COMPLIANCE WITH THE BSCB PROCEDURES & MINIMUM STANDARDS September 2008

1. Introduction

1.1 This procedure outlines the required response to, and considerations for, an organisation's or a professional's non-compliance with BSCB minimum standards and procedures.

*NB. These procedures are not written to address differences of opinion between professionals. Guidance for these circumstances should be sought from the BSCB procedures on '**Conflict Resolution**'.*

1.2 Non-compliance with BSCB procedures can be identified by **any** organisation, member of staff, volunteer or the public.

1.3 It is preferable that the person raising the concern identifies the specific policy or standard, which they believe has not been complied with.

Concerns presented by the public are more likely to be presented through complaints. Complaints procedures must therefore include appropriate routes of notification, when relevant, to the Safeguarding Lead Officer within the organisation.

2. Non-Compliance by an organisation with responsibilities under section 11 of the Children Act 2004, BSCB policies and procedures

2.1 Organisations named in section 11 of the Children Act 2004 are required to have the following arrangements in place in order to safeguard and promote the welfare of children:

- Senior management commitment to the importance of safeguarding and promoting children's welfare
- A clear statement of the agency's responsibilities towards children available for all staff
- A clear line of accountability within the organisation for work on safeguarding and promoting the welfare of children
- Service development that takes account of the need to safeguard and promote welfare and is informed, where appropriate, by the views of children and families
- Staff training on safeguarding and promoting the welfare of children for all staff working with or (depending on the agency's primary functions) in contact with children and families
- Safe recruitment procedures in place
- Effective inter-agency working to safeguard and promote the welfare of children
- Effective information sharing

2.2 The BSCB will audit compliance with the above s11 requirements through a peer review process and will require the identification of actions plans to address any deficiencies. Its aim is to promote high standards of safeguarding work and to foster a culture of continuous improvement.

2.3 The level of compliance for all BSCB partner organisations will be stated in any inspection where the view of the BSCB is sought.

2.4 Where it is found that a Board partner is not adhering to s11 duties, and the BSCB is not convinced that any planned action for complying will be adequate, the BSCB Chair (or a member or employee designated by the Chair) will explain the specific concern to the Board representative for that organisation. A more appropriate action plan to address the concern will be requested.

2.5 Where serious or persistent non-compliance with s11 requirements exists, the BSCB will be proactive in reporting the deficiency to one or more of the following bodies:

- the organisation's executive board;
- the relevant inspectorate body e.g. Ofsted, Commission for Social Care Inspection, Healthcare Commission, Her Majesty's Inspectorates of Constabulary, Prisons and Probation.
- the relevant Government department.

2.6 All Board partners need to ensure that within their own organisations, procedures and practice are consistent with BSCB policies and procedures. Where inconsistencies are identified, the BSCB will apply the same process and considerations as above.

3. Non-Compliance by an individual member of staff or volunteer – Internal Reporting

3.1 Wherever possible, the person viewed as not complying with BSCB procedures should be made aware of their non-compliance and informed that their line manager/supervisor within the organisation will be informed where one, or a combination of the following apply:

- The non-compliance is not immediately acknowledged and rectified
- Where a training requirement is identified
- Where there is actual or risk of repetition in the person's practice
- Where there is a perceived resistance to applying the procedure

3.2 In some circumstances it may be appropriate for the concerns to be reported directly to a senior manager without the prior knowledge of the non-complying member of staff e.g. if the concern is identified through a complaint made by a member of the public, or where the concern may be more constructively communicated through the senior manager, or where 'Whistle-blowing' procedures are required.

NB All staff and volunteers have a responsibility to challenge poor practice. It is recognised however, that some staff may need further support from their organisation to achieve this, particularly where the concern may relate to a more senior member of staff.

3.3 Where the non-compliance relates to the practice of the senior manager, or where it is believed that non-compliance by a colleague is not dealt with appropriately by the senior manager, the concern should be reported to the 'head of service' (see appendix), or, in cases involving allegations against staff, reported directly to the Local Authority Designated Officer.

4. Initial Response by the Senior Manager

4.1 The senior manager will need to determine whether the non-compliance has been rectified in terms of a service response, and in particular, ensure that any implications for a child's safety or wellbeing have been addressed without further delay e.g. by following child protection procedures.

4.2 The senior manager should at the earliest opportunity, discuss the non-compliance with the person concerned and their line manager, to determine the cause of the non-compliance.

5. Addressing the Non-Compliance of a member of staff/volunteer

5.1 Where it is perceived that, despite appropriate arrangements in place within the organisation, the member of staff or volunteer failed to follow the procedures to safeguard or promote the welfare of a child/ren, the employer should consider how best to address the deficiency.

5.2 In most cases, it is anticipated that the organisation will consider further training or advice for the member of staff or volunteer concerned.

5.3 In more serious cases, the organisation will need to consider the behaviour within the context of their own disciplinary processes (as possible competency or misconduct issues).

5.4 Where it is perceived that a member of staff or volunteer has committed a criminal offence (including deliberate withholding of information about a criminal offence) the matter must be referred for consideration by the police.

5.5 Where the outcome of any disciplinary investigation concludes a significant ongoing risk to the member of staff's/volunteer's suitability to work with, or have responsibilities for, children, the employer should refer the matter for consideration by the appropriate barring body.

6. Organisational Responsibility

6.1 The senior manager, in conjunction with the Designated Person/Lead for Child Protection, will need to consider whether the cause of non-compliance was due wholly or in part to the organisation's arrangements to safeguard and promote the welfare of children (see section 2 above). For example:

- Are the procedures sufficiently clear for all staff?
- Are the procedures sufficiently accessible for all staff?
- What did the organisation put in place to ensure that staff were familiar with their responsibilities relating to this policy (induction, training etc)?
- Who was available at the time to advise the member of staff and was the member of staff aware of the advisor's role?

6.2 Where it is identified that the cause of non-compliance was due, wholly or in part, to failings in the organisation's arrangements, the senior manager should report the deficiency to the 'head of service'. The 'head of service' should ensure that the organisation puts an action plan in place to rectify any deficiency and prevent repetition.