

NEW SOUTH WALES
DEPARTMENT
OF EDUCATION
AND TRAINING



PROCEDURES FOR THE LOCAL MANAGEMENT OF LESS
SERIOUS ALLEGATIONS IN THE AREA OF CHILD PROTECTION
AGAINST DET EMPLOYEES

Abstract

This document sets out the procedures and forms that are to be used when the Employee Performance and Conduct Unit (EPAC) determines that a less serious allegation against a Department of Education and Training (DET) employee in the area of child protection can be locally managed with EPAC oversight rather than investigated by the EPAC.

Applicability

These procedures apply to principals, school education directors, regional directors, institute directors and executive officers (ie. DET workplace managers) when a matter is referred to them by EPAC for local management.

Superseded Documents

Version number PD/2002/0026, implemented on 26 August 2002, and version number PD/2002/0026/V02, implemented on 18 March 2003 are superseded by this version PD/2002/0026/V03, implemented on 1 December 2005.

Context

The procedures have been developed to allow principals, school education directors, regional directors, institute directors and executive officers to manage less serious allegations in the area of child protection at the local level in a manner that best meets the needs of the students, the employee and the school or TAFE community, without undue delay.

EPAC provides the NSW Ombudsman's Office information about new and finalised matters in accordance with the *Ombudsman Act 1974*.

Procedures

- 1 Principals, school education directors, regional directors, institute directors, executive officers and other employees report to the Department of Community Services (DoCS) all allegations when there are reasonable grounds to suspect risk of harm to a child or young person. This must be done to meet mandatory reporting obligations. It is also the policy of the Department that allegations of a child protection nature or breach of discipline of a sexual, physical or non-physical nature by an employee involving any child, young person or any DET student aged 18 years of older must be reported to EPAC.
- 2 EPAC considers notifications received on a case-by-case basis, and
- 3 Assesses the matter, including whether the person who reported the matter is willing to consider local management.
- 4 If local management appears to be appropriate, the matter is assigned to a case manager in EPAC to co-ordinate the local management.

- 5 The case manager of a matter to be managed locally in a school contacts the school education director to obtain clearance for the matter to be managed in this way.
- 6 If cleared for local management the EPAC case manager contacts the principal, school education director, regional director, institute director or executive officer to advise that the matter could be managed at the local level if all other considerations are favourable.
- 7 The principal, school education director, regional director, institute director or executive officer becomes known as the “local manager” if he or she agrees that the conditions for managing the matter at the local level are favourable. If, for example, the employee has a pre-existing dispute or grievance with the local manager, if the local manager is perceived to have a conflict of interest, if police are involved or if further allegations of a more serious nature are made known, conditions may not be favourable.
- 8 The local manager discusses with the EPAC case manager:
 - the procedures to be followed, including gaining clearance from DoCS if applicable;
 - the timeframe for completion (indicative time is two weeks); and
 - the documentation to be completed.
- 9 If the local manager decides at any time that the conditions are not favourable or if the employee is not willing to participate in the process, the matter is referred back to EPAC who will consider whether the matter should be formally investigated by EPAC. Consideration may also be given to a request for sub-delegation of the local management to an appropriate officer.
- 10 The local manager may seek advice from the EPAC case manager at any time in the process. The EPAC case manager completes and retains Form 1 (An EPAC internal working document) and any other relevant records. The nature of matters managed locally does not suggest lengthy or complex investigation is warranted. A minimum number of accounts or reports may be sufficient to progress the management towards finalisation. However, it is important for the local manager to obtain sufficient information to support his or her recommendation that the matter has been dealt with.
- 11 In managing the matter locally, the local manager takes appropriate action which may include the following (the following points may be used as a checklist):
 - a) ensure as far as possible that only those parties who need to know about the substance of the matter are informed of it and reminds the employee, complainant/s and/or parent/s and other relevant parties of the need to maintain confidentiality;
 - b) advise the employee that the local manager needs to meet with the employee about a confidential matter, which he or she may like to attend with a support person;

- c) seek the employee's agreement to managing the matter locally;
- d) give information about the process to the employee (a sample script is available for this purpose at appendix 1), including that:
- EPAC will review the matter,
 - the Office of the NSW Ombudsman is advised of particular allegations and can audit and review all new and finalised matters,
 - the documentation of the information is collected and the results retained in a confidential file under restricted access in the EPAC.
- e) advise the employee of available support through the Employee Assistance Program (EAP), staff support officer, EPAC counsellors and relevant unions;
- f) in consultation with the EPAC case manager, consider any risk, taking into account the context of the alleged conduct, the risk to the alleged victim, other students, employee, DET, or others;
- g) collect any relevant documentation in the form of written accounts or thorough notes taken by the local manager about the issue or concern so the details of each allegation are clear to the local manager from:
- students and employees, taking care that witnesses do not confer with each other in providing their accounts;
 - other people, as required;
 - any additional comment by the employee about the identified issues or the proposed action;
 - notes or any relevant documentation, for example, behaviour management plans or school policies.
- h) provide the employee with an opportunity to respond to each allegation verbally or in writing and documents the response or invites the employee to do so;
- i) consider the available information in an impartial manner with a view to making a recommendation to EPAC regarding his or her assessment of what probably happened;
- j) determine appropriate strategies to be implemented on the basis of the information collected, which may include:
- arranging a meeting with the employee and/or parents of students (in general, if any documents are to be provided to parents/caregivers, the local manager should consult with EPAC),
 - examining any relevant cultural issues and how the school could deal with these,
 - revising employee awareness of the procedures, [Responding to Allegations against Employees in the Area of Child Protection](#),
 - considering possible employee development activities,

- clarifying relevant school policies and practices,
 - making use of EAP and other staff welfare providers, district office staff including special education consultants, staff support officers as appropriate,
 - developing peer assistance programs,
 - reminding employee of the Code of Conduct and other appropriate material,
 - reviewing supervisory practices within the school;
- k) take appropriate action arising from point j) above;
- l) provide all of the documentation pertaining to the matter to EPAC on completion of local management of the matter, including:
- the completed Form 2 (See Appendix 2),
 - notes, if any, regarding risk assessment (see point f) above),
 - notes or accounts (see point g) above),
 - copies of documentation, if any, provided to the parent/caregiver, if any was provided after consultation with the EPAC case manager;
- 12 If the local manager feels that the issues have been satisfactorily dealt with, Form 2 (see Appendix 2) and any relevant documentation is returned to EPAC to consider. At this point, results will be determined in regard to the allegations.
- 13 The EPAC case manager notifies the local manager of the finalisation decision and the local manager notifies the employee of the decision. If in any instance the finalisation decision regarding the result or proposed action differs from the information previously provided to the employee by the local manager, the employee must be advised of the final result and provided with an opportunity to respond.
- 14 EPAC's allocation and reporting officer files all documentation relating to the matter in a confidential file under restricted access.
- 15 A database is maintained by EPAC to record relevant information including:
- the number of matters dealt with locally;
 - whether the matters have been satisfactorily dealt with and finalised, or referred to the allocation committee for consideration for investigation by EPAC;
 - the timeframes for completion of matters; and
 - the case managers involved.

**A FLOWCHART DEPICTING THESE PROCEDURES IS ATTACHED AT
APPENDIX 3.**

**SAMPLE SCRIPT FOR PRINCIPAL'S OR OTHER LOCAL MANAGER'S
DISCUSSION WITH STAFF MEMBER**

Introduction to the incident	I need to talk to you about a confidential matter and you may like to have a support person present. (Name of staff member), a concern has been raised with me about an incident, which may have occurred. (state date and time of alleged incident)
Detail of conduct	The concern is that (details of alleged behaviour including detail of place, time and names of people involved etc. N.B. the identity of the complainant is not to be divulged)
Assessment of the allegation	You would be aware that I am required to report an allegation of this nature to the Employee Performance and Conduct Unit (EPAC), which I have done, and EPAC has assessed it and decided that it is not a serious matter, and could best be dealt with under procedures for local management, which is to say, dealt with locally. I have agreed to do this. (At this point give the staff member a copy of the procedures).
Staff member's understanding and acceptance of the process	But before we go ahead I have to be sure that you agree with this as well, and understand that the alternative is a EPAC investigation. To help you decide, I need to explain what the process may involve. You don't have to make any statement at this time and will have an opportunity to get advice.
The procedures: a) Clarification of issues	In order to manage locally, the issues have to be clarified. To do this I may need to speak to other students, parents, other staff and yourself. I will determine the appropriate method of local management.
b) storage	The originals of any documentation that is created in this process have to be provided to the EPAC, and it will be kept there, under restricted access. No copies are kept in the school/workplace.
c) copies	A copy of any report that goes into the EPAC will be provided for you and you of course have a right to make a comment about any aspect of local management that is implemented.
d) time	The matter can be dealt with speedily and the whole context of any incident, which may have occurred, can be taken into account.
e) role of the Ombudsman	The Office of the NSW Ombudsman oversees DET processes for responding to allegations against employees.

APPENDIX 1 (continued)

Referral back to EPAC	If either you or I believe that the matter can't be completed at the local level, we can refer it back to EPAC for a full investigation. You may like to seek advice before making that decision. It can also be referred back for EPAC investigation if further information suggests that would be appropriate.
Information from case manager	The person to whom I spoke at EPAC and to whom I'll be sending the report is (name of EPAC case manager). If you have any questions about this process that I can't answer, or any concerns about the matter, he/she will be happy to discuss these with you. He/she can be reached on 02 9266 8070.
Support available	We will provide you with support here and you can also seek support from the staff support officer, the Employee Assistance Program and your union. There also are senior counsellors at EPAC. They can be contacted on telephone 9266 8070.
Collecting information	If we decide that we can manage the matter this way, I would like to clarify what in fact are the issues in the present circumstances. To do this I may need to speak to students, parents or other staff.
Staff member's involvement	After I do that I'd like to give you an opportunity to provide information or comment either verbally or in writing on any identified issue. You can bring a person to support you at any meeting with me if you wish.
Action	I'll be in a position then to provide a report on the matter. This will record my actions.
Finalisation	This documentation will all be sent to EPAC and the matter will be reviewed. You will be advised of, and given the chance to respond to EPAC finalisation variations, if there are any, as to how this matter was managed locally.
Questions	Do you have any questions at this stage?
Agreement to process	Do you agree that this matter can be dealt with at the local level?

CONFIDENTIAL

DEPARTMENT OF EDUCATION AND TRAINING EMPLOYEE PERFORMANCE AND CONDUCT UNIT (EPAC) PROCEDURES FOR LOCAL MANAGEMENT OF LESS SERIOUS ALLEGATIONS IN THE AREA OF CHILD PROTECTION RETURN FORM

Name of person against whom the allegation(s) has been made:.....

Date of notification:..... Current school/location:.....

- Allegation(s)

1. _____
 2. _____
 3. _____
 4. _____

- What is the local manager’s recommendation to the EPAC regarding his or her assessment of what probably happened in relation to each allegation?

1. _____
 2. _____
 3. _____
 4. _____

- What local management strategies/actions were/will be implemented?

1. _____
 2. _____
 3. _____
 4. _____

- Supporting documentation (including in relation to the local manager’s recommendation and strategies/action) attached **YES / NO**
- The employee has been advised that the NSW Ombudsman oversees DET processes for responding to allegations to employees. **YES / NO**
- The employee has agreed that the matter can be dealt with locally. **YES / NO**
- The employee has been advised of the outcome and proposed strategies for action and offered the opportunity to respond. **YES / NO**
- The employee has been advised that EPAC will review the matter. **YES / NO**
- The employee has been advised that all documentation is retained in the EPAC in a confidential file under restricted access. **YES / NO**
- Parents of the student have been informed of and involved in the process. **YES / NO**
- The procedures have been completed. **YES / NO**

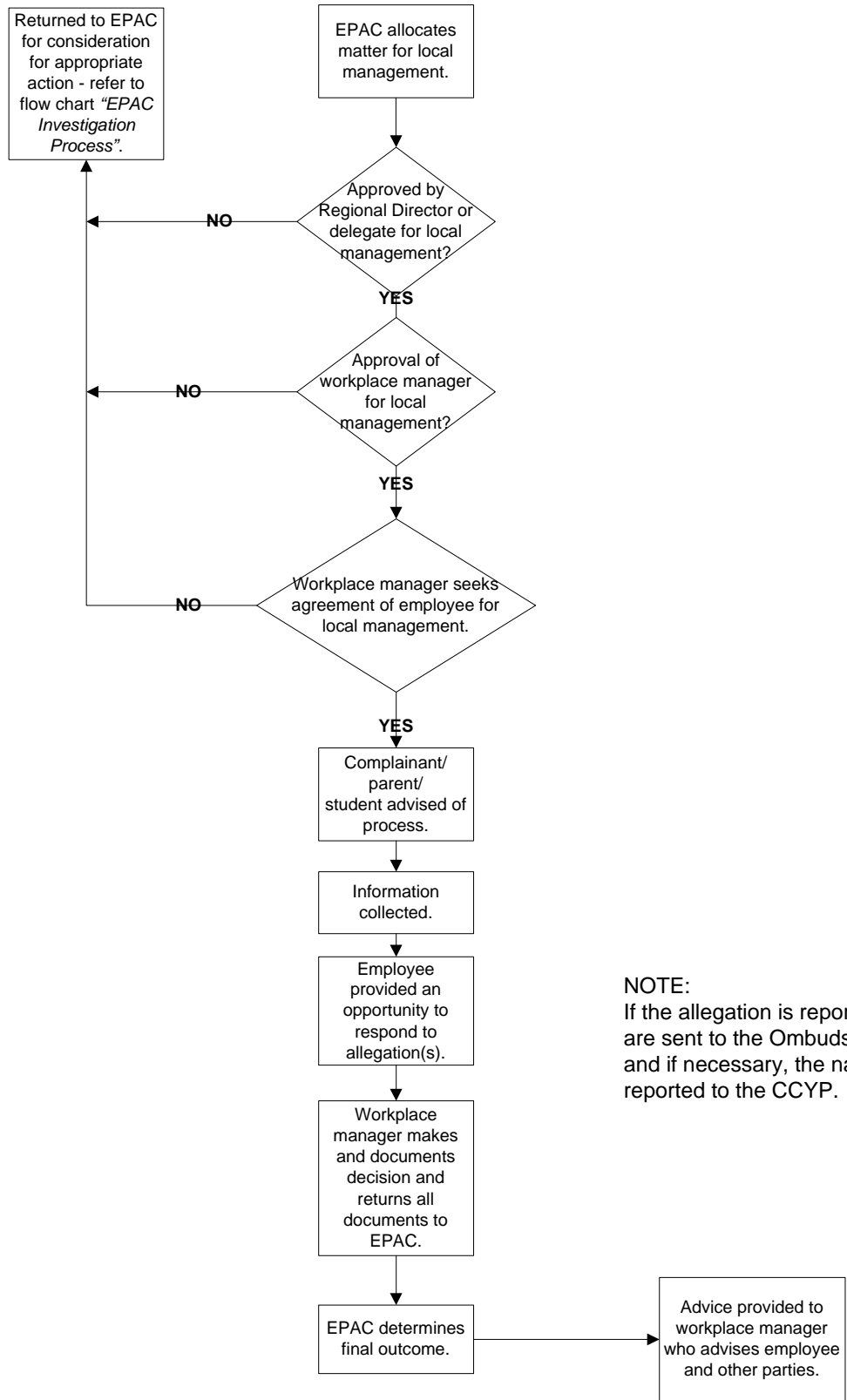
Form completed by the Principal or other Local Manager:

Name:	Position:
Signature:	Date:

Please fax to the EPAC case manager on 9266 8077.

- **A copy of this Return Form has been provided to the employee involved** **YES / NO**

Appendix 3 - Flowchart Local Management Process



NOTE:
If the allegation is reportable, documents are sent to the Ombudsman and if necessary, the name of the employee reported to the CCYP.

Tips for handling Local Management Matters



Refer to [Procedures for Local Management for Less Serious Allegations in the Area of Child Protection against DET Employee](#)

Report all allegations to EPAC before commencing your enquiries

Phone: 9266 8070 Fax 9266 8077

EPAC officers will provide you with guidance and support at any stage during the investigation.

1. Clarify what is being alleged

Ask the person making the complaint to tell you exactly what they saw or heard happen or what they were told.

2. Determine what information you need

Who do you need to interview about the allegation?

- The alleged victim
- Witnesses
- Any other person with relevant information
- The person who is the subject of the allegation

Identify if the parties to your enquiries have special needs; e.g. age, disabilities or cultural and language, and make appropriate arrangements for them.

3. Make a Plan

It does not need to be complex and can be handwritten but it should show what you intend to do

Sample Investigation Plan

During a PDHPE lesson yesterday a teacher threw a ball at a boy and it hit him in the small of his back leaving a red mark. The boy complained to his Year Adviser that the teacher had done it on purpose, he was crying and upset.

- Clarify allegation with Year Adviser
"What did the boy say to you?" "Did you see the mark?"
"Where was it on his body?" "How big was it?" "Was he saying he was in pain?" "Was anyone with him?" "Are his parents aware of the incident?"
- Report to EPAC and get clearance to manage locally
- Prepare questions
"Tell me what happened?" "What was happening before?"
"How hard did he throw the ball?" "What did teacher say?"
- Interview the student
- Interview eye witnesses (2 or 3 is enough not the whole class)
- Formulate the allegation/s to put to teacher
- Advise the teacher of the interview at least 24 hours before and offer support person
- Complete LM forms and return all notes and documents to EPAC (3 weeks from date of incident).

4. Keep Records

Your records will demonstrate that you have responded appropriately to a complaint or allegation so it is important to document the process thoroughly.

Keep notes of all conversations and interviews. Note the questions that you asked and as near as possible the interviewee's own words when recording their answers.

Keep all correspondence and print out emails, and it is a good idea to keep notes of any advice you receive from EPAC or DOCS.

At the end of the process send all the documents you hold regarding the matter to EPAC for secure keeping. Remember these documents may be reviewed or audited by the NSW Ombudsman.

5. Obtain statements

Obtain a statement in writing or at interview from the alleged victim and witnesses, and the employee.

Clarify with them

- when it happened
- what they saw
- who else was present
- the level of force used
- what was else was happening in the room/playground, and
- who else might know something?

6. Collect any physical evidence

Describe any alleged injury e.g. the colour, size and place of a bruise or scratch mark. Take a photo if appropriate.

If the student has received medical treatment as a result of the injury, you might request a medical certificate from the parent.

If it is relevant and if doing so clarifies what happened

Collect documents

- letters
- notes
- e-mails

Inspect objects

- mobile telephones
- computers

Inspect locations

- draw a map of the classroom
- take a photo of the playground.

Interviewing tips

The Do's

- ✓ Interview each person in a private room.
- ✓ Separate students when they are writing witness statements.
- ✓ Ensure the person being interviewed is given the opportunity to have a support person during the interview.
- ✓ Explain to them why they are being interviewed.
- ✓ Make them as comfortable as possible and let them know that they are not in trouble.
- ✓ Ask open ended questions e.g. "Tell me what happened during science class last Thursday?" "I understand you told Mum that something happened to you at school the other day that you were unhappy about. Tell me what happened?"
- ✓ Repeat a question using different words if they don't understand.
- ✓ If you want to clarify the information try using the words in the person's answer - "So you said the boy was being naughty and the teacher grabbed him by the arm and dragged him. What was the boy doing to be naughty? Where on his arm did she grab him? Tell me more about that."
- ✓ Ask for more detail "Do you think it was a soft or hard grab?" "Did she say anything to the boy?" "Did the boy say anything?"
- ✓ Try to clear up any inconsistencies in the interviewee's information before the interview finishes.

The Don'ts

- ✗ Don't interview witnesses together.
- ✗ Don't allow a witness to be a support person for any other party.
- ✗ Don't allow a support person to interfere with the answers the interviewee is giving.
- ✗ Don't ask leading questions e.g. "Did that really hurt?"
- ✗ Don't express your own opinions during the interview.



The principles of procedural fairness

Everyone has a right to an unbiased process

Keep an open mind. Don't assume that an allegation is true or false

Be prepared to look at **all** the relevant evidence

Declare any conflict of interest before you start and if required get advice on how it might be managed, and

If the conflict can't be managed get someone else to manage the process. You might ask the SED if there is someone at Regional Office or another Principal or Deputy Principal that can handle it as a Local Management matter in preference to escalating the matter to an EPAC investigation.

Everyone has a right to be heard

Give each person the opportunity to state their case adequately

At the end of the information gathering, the person who is subject of the allegation must be told the substance of the allegations and given an opportunity to respond either at an interview or in writing.

The decision must be based on relevant evidence only.

7. At the end of your enquiries

Complete the forms and include your recommendations in relation to a finding and what action, if any, you consider should be taken to prevent further allegations of a similar nature occurring. These may include strategies such as counselling and support for the teacher or the student or it may involve a change of practice in your school.

Attach any supporting documentation to the form and send to EPAC. EPAC will advise you if further action is required or confirm the outcome.

At any stage during the process if you become aware there is a risk of harm to a child or young person **you must report to DOCS.**

Helpline 133627 Fax 9633 7666