

Managing Allegations and Concerns about Adults who work with Children

PRACTICE GUIDANCE

2023

Section 1

1.1 Introduction

The aim of this document is to enable agencies to work effectively together in the process of managing allegations or concerns against adults who work with children. This is a joint protocol between Luton Borough Council, Bedford Borough Council, Central Bedfordshire Council and Bedfordshire Police. This document is also useful reference for other partnership agencies. **The protocol should be used in conjunction with the Bedford Borough, Central Bedfordshire and Luton Safeguarding Children Partnership Procedures (Section 3.3)**

1.2 Key Principles

- 1) The welfare of the child is paramount. Safeguarding children is the action we take to promote the welfare of children and protect them from harm, children should be central to the process of the management of all allegations.
- 2) Adults about whom there are concerns should be treated fairly and honestly and should be provided with support. The employers of those subject to an allegation or concern have a duty of care towards them.
- 3) It is important to ensure that even apparently less serious allegations are followed up, and that they are examined objectively by someone independent of the organisation concerned. Each Local Authority designates an officer (LADO) whose role is to provide management and oversight of individual cases, liaise with other agencies and ensure cases are dealt with as quickly as possible, consistent with a fair and thorough process.
- 4) The scope of inter-agency procedures in this area is not limited to allegations involving significant harm or the risk of significant harm to a child.

1.3 Definition of an allegation

An allegation or concern that any person who works with children, in conjunction with his/her employment in either a paid or unpaid capacity, or voluntary activity has;

- behaved in a way that has harmed a child, or may have harmed a child;
- possibly committed a criminal offence against or related to a child;
- behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children; or
- behaved or may have behaved in a way that indicates they may not be suitable to work with children.

Section 2

2.1 Case Management Model (see appendices)

Not all allegations or concerns require the same level of response, therefore referrals are managed in line with the following model;

2.2 Consultation

A referral to the LADO which, after consideration, is deemed not to meet the definition of an allegation/concern (1.3).

Examples could include the following (not an exhaustive list);

- the subject of the allegation/concern cannot reasonably be considered to be 'an adult who works with children'
- there is no identifiable transferrable risk to the children worked with
- where the adult concerned cannot be identified
- the allegation/concern is more appropriately described as a practice issue and should be dealt with by the employer

In these situations the LADO will record that a consultation has taken place, the name of the professional and agency making the contact, brief details of the circumstances and basic details of the adult under discussion. It is important that these details are recorded as they could be drawn upon if further concerns come about in relation to that individual. It also provides a record that a risk was not identified about the individual.

2.3 Tier 2 referral

The referral does meet the definition of an allegation as set out in 1.3 and as such considered to meet threshold. However the strategy required for dealing with a case at this level is less complex than a Tier 1 referral and typically needs less 'active' management by the LADO or other agencies. In such cases the employer normally is best placed to manage the matter to its conclusions.

On the basis a Tier 2 referral has met threshold the LADO will record the matter. The LADO will monitor the progress of the employer's investigation and quality assure the outcome. When the employer has concluded their investigation and/or disciplinary procedures the LADO will assign an appropriate conclusion term (substantiated, unsubstantiated, unfounded, false or malicious)

Tier 2 – example:

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| Tier 2 Example |
| A nursery worker has handled a 3 year old child in an aggressive manner, allegedly grabbing the child by the arm tightly. Subsequently the worker pulled the child's arm and shouted at the child. . The child was not injured but did become upset following the incident. There have been no previous concerns about this worker and there are no other factors which require the case to be escalated. |
| Rationale |
| <p>The worker is alleged to have acted outside of government guidance on the use of force. Although the child is not injured the worker has acted inappropriately and may have harmed the child, albeit not to the level of significant harm. There is no role for the police or other agencies and therefore the matter is best managed by the employer. The LADO will review the outcome of the internal investigation and apply an appropriate outcome term.</p> <p>A Joint Evaluation Meeting would not normally be required in this case but instead would be managed by liaison between the LADO and the employer.</p> |

2.4 Tier 1 referral

A referral recorded at this tier clearly meets the definition set out in 1.3. It may be a serious concern and usually requires the involvement of other agencies. A Tier 1 case involves active management by the LADO. .

In most Tier 1 cases a Joint Evaluation Meeting and subsequent reviews are needed to coordinate the activity of agencies.

Cases of physical, sexual, emotional abuse or neglect as defined by Working Together to Safeguard Children 20 will be managed at Tier 1. Similarly serious concerns that a person may pose to children will usually be managed at Tier1.

In some circumstances apparently less complex or serious cases will be managed at Tier 1 1. For example when a pattern of allegations or concerns is emerging or there are complicating factors which require active management.

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| Factors which might influence a decision to manage a case at Tier 1 |
| <ul style="list-style-type: none"> • Allegations which require the involvement of other agencies such as the police or children's social care • Allegations of abuse as defined by Working Together 2018 • An allegation which is complicated by the number of victims/perpetrators/ or roles held |

- A pattern of allegations/concerns.
- Other complicating factors including interest by a third party such as the media.

Section 3

3.1 Assessing criteria 3 (behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children).and 4 (behaved or may have behaved in a way that indicates they may not be suitable to work with children)

There may be occasions when an adult's behaviour, either within the workplace, or in the adult's personal life, gives rise to concerns they **may pose a risk** to the children they work with. The employer, in conjunction with other appropriate agencies, will need to make a judgement about the impact of that behaviour on the children they come in to contact with in their role. What constitutes a risk will vary depending upon the context and nature of the work the adult is involved in.

In other circumstances the behaviour of an adult in a position of trust could undermine public trust and confidence in that persons suitability to work with children.

Examples of cases managed under criteria 3 or 4

- Information which suggests the adult may have a sexual interest in children. This includes adults alleged to have downloaded Indecent Images of Children (IIOC)
- The adult is under investigation for the abuse or neglect of their own children
- An allegation of non-recent sexual abuse
- The adult is involved in crime such a perpetrating domestic abuse or the supply illegal substances.

There are other scenarios where the risk to children is less clear and requires careful consideration at the point of referral. In such cases the adult may be the injured party or vulnerable in some other way. It is important that the potential risk is carefully balanced with the risk of further victimisation of the adult concerned. Examples

include adults who are victims of domestic abuse, are experiencing mental health problems or suffering as a result of alcohol or substance misuse. In these circumstances it will be necessary to evidence a direct impact of this on his/her role with children when considering this within the allegations procedures.

As of September 2020 an additional criteria was added to national guidance; behaved or may have behaved in a way that indicates they may not be suitable to work with children. This category is similar to the previous category *'behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children'* but could conceivably cover a wider range of scenarios. Such situations may not necessarily imply a direct risk to children but could have a negative impact on public confidence in that person's ability to discharge their duty to safeguard children.

Children's Social Care

All allegations or concerns which, at the point of referral, show the potential for meeting the definition of significant harm should be referred to the relevant team in Childrens Social Care. In these circumstances a Section 47 strategy meeting in line with the inter-agency Safeguarding Children procedures should be called. The meeting should be chaired by the relevant manager within the team and the LADO should be informed/invited. When a Section 47 investigation is concluded consideration should be given to transferring the management of the case to the LADO. If transferred, any future meetings held will be meetings chaired by the LADO.

Bedfordshire Police

Allegations are to be referred to Bedfordshire Police for two reasons:

- 1) To consider the need for police to investigate an alleged crime
- 2) To enable information sharing and aid decision making relating potential risk to children;

The nature of allegations or concerns referred to the LADO varies considerably. In some circumstances an allegation may technically meet the definition of a crime (e.g. Assault or Battery) however a criminal investigation seems a disproportionate response. There is also a need to distinguish between allegations of assault and the legitimate use of physical intervention or restraint to protect a child/children from harming themselves or others, or damaging property.

By the same token, inappropriate behaviour toward a child by a person in a position of trust should be taken seriously and considered an aggravating factor when assessing the need for police involvement. In many cases the use of physical chastisement by adults in such positions has been outlawed and should be considered accordingly. The child does not have to be injured or marked in order for the matter to be considered a criminal offence. It should also be recognised that the police hold the expertise on the definition of an offence and may consider offences outside the knowledge of professionals in other agencies.

The LADO will **usually** refer to the police in the following cases:

- There is injury or reported injury (including minor injury such as a red mark). The exception would be if the injury was clearly caused accidentally.
- Allegations of sexual abuse, including *concerns* about an adult's behaviour which *may* indicate a sexual interest in children.
- The alleged use of physical force in circumstances other than to protect child/children from harming themselves or others, or damaging property. This would include situations where there is no injury but there are other aggravating factors such as (i) a previous pattern of this behaviour (ii) the level of violence, threat of violence, or premeditation which escalates the level of concern (iii) the underlying intent is believed to have been to cause harm to the child.
- Despite the allegation being low level another factor, such as the wishes of the child or the parent, means police consultation is required.
- The child is additionally vulnerable and potentially less able to express their wishes.

In these cases police would be expected to contribute to the meeting chaired by the LADO. The officer attending the meeting should be a level where they are able to make threshold decisions. This would normally be a Detective Sergeant.

Section 4

Sharing information with a person's employer

In most cases an allegation or concern is referred to the LADO by the employer of the person concerned. However, in some circumstances, the LADO is made aware of a concern by a third party such as the police, children's social care or another source. A typical scenario involves information about an adult's private life such as domestic abuse, drug and alcohol misuse, or children's social care involvement in the family.

The role of the LADO in these cases is to discern the extent to which the information shared represents a transferable risk between the person's private life to their professional or voluntary role working with children.

Some factors which are used to determine ‘transferable risk’ include; whether the employer has any concerns about them in the workplace? What their role involves? Level of contact with children? The extent to which they are supervised?

To establish this information, the LADO must have direct contact with the employer. It is important to get the balance right between protecting children who may be at risk within a professional environment, whilst at the same time respecting an adult’s right to private life.

In some circumstances the rationale for sharing information with the employer is clear; for example, an adult working in a school who has been accessing child abuse images at home. However, in other circumstances the rationale is less clear and therefore the decision to share information with the employer is more debatable.

Use and sharing of personal information is governed by the Data Protection Act 2018 and the UK GDPR, and supported by a number of related regulations, guidelines, and common law. This is collectively referred to as ‘Data Protection Legislation’.

The guiding principles of data protection are that personal data should only be used in a manner that is fair, lawful, and transparent.

Sharing information to prevent harm to any person is well supported by the legislation. If the LADO has reason to believe that an individual is a risk to children or vulnerable adults, then they should not hesitate to share with any organisation or individual who can prevent the harm.

The LADO is also empowered to make enquiries, and this forms the legal basis for collecting, storing and sharing information.

The LADO must decide if the disclosure to the employer is fair and transparent. Unless there is a reason why the investigation must be undertaken covertly, the LADO should make the individual aware that they propose to approach their employer. The 8th Caldecott principle is also relevant - “Inform patients and service users about how their confidential information is used”.

This gives the individual the opportunity to make the LADO aware of any unique circumstances (Article 21 UK GDPR – ‘the right to object’)— for example, if the employer has a policy that any enquiry from a statutory body is a gross misconduct offence, or if the individual is currently in dispute with their employer. It is likely that it will be appropriate to proceed against the individual’s wishes. This is within the LADO’s authority and the decision should be documented.

The assessment of ‘fairness’ is more subjective, and is perhaps one of the more challenging judgements in the LADO’s role.

In this aspect, the LADO must step into the role of advocate for the individual being investigated. The principles of natural justice should be considered – is the individual

accused of being an active perpetrator of abuse, or are they a passive observer who has failed to protect a child in their care? Are the circumstances of the allegation unique; would they be impossible to replicate in a professional/public environment? This may be particularly relevant in allegations of inappropriate discipline of a child by a parent.

Is the enquiry to the employer necessary? The LADO should be clear what information they are seeking, and what they are prepared to disclose, before they make contact with the employer.

In summary, every case should be considered on its individual merits. Information shared should be the minimum necessary for the purpose, and the individual should be made aware about sharing in advance (exceptional circumstances may apply). Timely documentation allows the LADO to justify the rationale and to evidence the information that informed the decision.

The LADO should draw on the support of other lead professionals in their organisation to support their deliberations. The Data Protection Officer and Caldecott Guardian are available to give advice on the ethics and statutory duties around sharing and storing personal data.

Section 5

[Suggested Recording Data Set:](#)

Where an allegation is made and meets the criteria for either Tier 1 or Tier 2 the following data should be captured:

Name, Address, Date of Birth, gender and ethnicity of the adult and the victim;

Details of the referring agency;

Details of the employing agency; role/occupation

How did allegation come to light

Category of abuse (physical, sexual, neglect, conduct etc); date of incident (historic if over 12 months ago)

Case management Tier (ie 1,2)

How the risk was managed – ie suspended /restricted duties

How allegation was investigated – criminal, S47; disciplinary etc and outcome of investigations

Referral to and date of DBS referral – and details of referral to any other body

Conclusion category and date of conclusion timescale for case

Allegations Case Management Model

LADO Referral Received



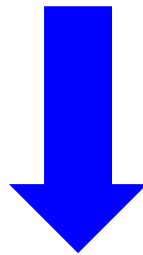
Consultation Only: No Further Action from LADO

Examples include –

The adult cannot be considered to be 'an adult who works with children'.

There is no identifiable safeguarding children concern.

Where the adult concerned cannot be identified.



Tier 2: LADO Guidance and Monitoring Only

An internal investigation is required by the employer or organisation best placed to manage the matter to the conclusion.

The LADO is however available and actively monitors timescales and quality assures the outcome.



Tier 1: Active Case Management by LADO

Allegations which require the active management by the LADO, including the coordination of involvement of other agencies such as the Police or Children's Social Care.

Examples include -

A serious allegation of abuse

A pattern of allegations/concerns are emerging.