**Engagement, Safeguarding and Quality Assurance**

**Haringey LADO Procedures**

**LADO function & the statutory management of allegations against staff & volunteers (ASV)**

v1 November 2022

**Recommended Review Date**: September 2023,
in line with annual updates in *Keeping Children Safe in Education & London CP Procedures*

**Finola Owens**

22 November 2022

**Introduction**

*Working Together to Safeguard Children* states that “Local Authorities should have a Designated Officer or team of officers to be involved in the management and oversight of allegations against people that work with children**. Local Authority Designated Officers** or **LADOs** are distinct from designated safeguarding officers located in every agency, who work with children.

The role of the LADO is to oversee decision-making, investigations and outcomes in relation to those against whom allegations are made.

While the role sits within Children’s Social Care, it is essentially a multi-agency role.

The LADO role is to:

* Receive reports about allegations and be involved in the management & oversight of cases
* Provide advice & guidance to public and private employers and voluntary organisations within the children’s workforce, liaise with the police and other agencies
* Monitor the progress of cases to ensure that they are dealt with as quickly as possible, consistent with a thorough and fair process
* Provide advice and guidance to employers in relation to making referrals to the Disclosure and Barring Service (DBS) and regulatory bodies such as Ofsted, the General Medical Council (GMC) etc.

***Working Together to Safeguard Children* also states that:**

“Local authorities should put in place arrangements to provide advice and guidance to employers and voluntary organisations and agencies on how to deal with allegations against people who work with children to employers and voluntary organisations. Local authorities should also ensure that there are appropriate arrangements in place to effectively liaise with the police and other agencies to monitor the progress of cases and ensure that they are dealt with as quickly as possible, consistent with a thorough and fair process.”

LADO and those covering the role must have expertise in this area, as any errors in the advice could have significant ramifications, both for those individuals who have had allegations made against them and for those making the allegation.

LADOs **do not carry out investigations** into allegations – responsibility for the investigation remains with the employer (or whoever is commissioned by the employer to investigate the process) and/or the police. The LADO can provide advice and, where necessary, co-ordinate the process. It is important that the LADO can collaborate with our multi-agency partners in Haringey in Education, Health, the Private and Voluntary services, and Police in order to manage risk of harm and to safeguard children in the professional context. The LADO is also responsible for ensuring an appropriate outcome is reached and to ensure fairness and proportionality throughout the allegations process.

There are 2 routes through the allegations process: the first is through Consultation, when the LADO provides advice, and it does not meet the threshold of an allegation; the second is the referral process when an allegation has been made about a professional or person in a position of trust.

The link to statutory frameworks for LADO work is listed below. Suffice to say that the London LADO will operate under the principles of Chapter 7 of the London Child Protection procedures, which summarises national and local guidance. The London LADO Network, of which Haringey is a key member had full oversight into the writing of the chapter.

# Statutory Framework

# Key guidance includes:

* [Working Together to Safeguard Children: Statutory guidance on inter-agency working to safeguard and promote the welfare of children (2018)](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779401/Working_Together_to_Safeguard-Children.pdf)
* [Use of reasonable force in schools (2019)](https://www.gov.uk/government/publications/use-of-reasonable-force-in-schools%22%20%5Ct%20%22_blank)
* [Disqualification under the Childcare Act (2006) updated 201](https://www.gov.uk/government/publications/disqualification-under-the-childcare-act-2006)8
* [Making barring referrals to the DBS (2016) updated 2022](https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs%22%20%5Ct%20%22_blank)
* [DBS barring referral guidance (2013) updated 2018](https://www.gov.uk/government/collections/dbs-referrals-guidance--2%22%20%5Ct%20%22_blank)
* [*The* *London Child Protection Procedures* (reviewed biannually, updated Oct 2022](https://www.londoncp.co.uk/alleg_staff.html))
* Keeping Children Safe in Education 2022 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\_data/file/1101454/Keeping\_children\_safe\_in\_education\_2022.pdf

[*Working Together to Safeguard Children* 2018](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779401/Working_Together_to_Safeguard-Children.pdf)

(WTSC 18) is the overall statutory guidance that sets out the LADO role, Chapter 2 S4­—9, stipulating that organisations and agencies working with children and families should have clear policies for dealing with allegations against people who work with children.

The definition of allegations dealt with under these procedures relate to a person who works with children who 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, and/or
* behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children,
* behaved or may have behaved in a way that indicates they may not be suitable to work with children\*.

**Keeping Children Safe in Education 2022**

The statutory guidance for statutory-school-aged children 4 – 18 in education, was updated in 2022 and amplifies what is known as “the fourth threshold, ” which we will refer to later in these operational procedures.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\_data/file/1101454/Keeping\_children\_safe\_in\_education\_2022.pdf

# LADO Thresholds

Thresholds should be applied to any member of the children’s workforce, paid or unpaid, who is placed in a position of trust in relation to children, and 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, and/or
* behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children, and/or
* behaved or may have behaved in a way that indicates they may not be suitable to work with children\*.

[The London Child Protection Procedures 2022](https://www.londoncp.co.uk/alleg_staff.html)

S7.2.2 – 7.2.7 note that allegations can be made in relation to physical chastisement and restraint. They can also relate to inappropriate relationships between members of staff and children or young people, for example:

* Having a sexual relationship with a child under 18 if in a position of trust in respect of that child, even if consensual (see ss16-19 Sexual Offences Act 2003)
* 'Grooming', i.e., meeting a child under 16 with intent to commit a relevant offence (see s15 Sexual Offences Act 2003)
* Other 'grooming' behaviour giving rise to concerns of a broader child protection nature e.g., inappropriate text / e-mail messages or images, gifts, socialising etc
* Possession of indecent photographs / pseudo-photographs of children.

The London Child Protection Procedures were updated in October 2022 this chapter was updated as the Police, Crime, Sentencing and Courts Act 2022 has extended the definition of Position of Trust within the Sexual Offences Act 2003 section 22A to include anyone who coaches, teaches, trains, supervises or instructs a child under 18, on a regular basis, in a sport or a religion.

**The difference between and Allegation and a Concern:**

It might not be clear whether an incident constitutes an 'allegation'. It is important to remember that to be an allegation the alleged incident must be sufficiently serious as to suggest that harm has or may have been caused to a child/ren or that the alleged behaviour indicates the individual may pose a risk of harm to children (or otherwise meet the threshold criteria above). Issues that do not meet this threshold may constitute conduct or disciplinary issues and should be addressed by employers using the appropriate organisational procedures. (LCPP 2.9)

The LCPP helpfully provide examples of how the LADO may manage the threshold of harm in Section 2.10

* Was the incident a disproportionate or inappropriate response in the context of a challenging situation?
* Where the incident involved an inappropriate response to challenging behaviour, had the member of staff had training in managing this?
* Does the member of staff understand that their behaviour was inappropriate and express a wish to behave differently in the future? For example, are they willing to undergo training?
* Does the child or family want to report the incident to the police, or would they prefer the matter to be dealt with by the employer?
* Have similar allegations been made against the employee – is there a pattern developing?

# LADO Consultations

* The procedures for dealing with allegations need to be applied with common sense and judgement. Many cases may well either not meet the threshold criteria set out above, or may do so without warranting consideration of either a police investigation or enquiries by local authority children's social care services. In these cases, employers should follow their safeguarding and other relevant procedures to resolve cases without delay.
* Any concerns that fall below threshold are defined by Haringey LADO as a LADO consultation.
* LCPP 20, Part 7, S7.2.8 – 7.2.11, notes that incidents which fall short of the threshold could include an accusation that is made second or third hand and the facts are not clear, or the member of staff alleged to have done this was not there at the time; or there is confusion about the account.
* If the concern falls short of this threshold there may still be a role for the LADO to provide advice and support to the employer.  Where the matter constitutes a conduct or performance issue, the employer should follow the appropriate disciplinary procedures.

**Low Level Concerns**:

The evaluation of low-level concerns should always be undertaken in consultation with the LADO. The consultation process allows for concerns to be evaluated objectively and to ascertain whether or not similar concerns may have been raised by a previous employer but not met the threshold for investigation. Whilst the LADO will only record the details of those allegations which appear to meet the threshold for consideration set out above, the employer should record the details of any low-level concern that arises in respect of a member of their staff. The LADO should keep a record of the number of consultations that are determined to be low level by employers and include that information in their annual report to the Haringey Safeguarding Children’s Partnership.

 ‘Low level concerns’ include behaviour that may have happened outside of school or college, that might make an individual unsuitable to work with children. The harm test is explained in the Disclosure and Barring Service Guidance: Making barring referrals to the DBS and Section 31(9) of the Children Act 1989 as amended by the Adoption and Children Act 2002 86 known as transferable risk. Where appropriate an assessment of transferable risk to children with whom the person works should be undertaken. If in doubt seek advice from the local authority designated officer (LADO). (KCSIE: 2022)

It is common practice for the LADO to provide advice to our Education partners on ‘low level concerns’ regarding a professional or volunteer’s practice or behaviour in their personal life. Such advice is usually recorded as a LADO “**Consultation.”**  It allows the employer to seek confidential advice from the LADO who has expertise in threshold of harm. It is important that all employers of organisations who work or volunteer with children also apply the practice of giving due consideration to ‘Low Level concerns’ and seek advice from the LADO when necessary.

**Concerns in Personal Life**

KCSIE emphasises transferable risk from concerns that may occur in the course of a professional’s personal life, even if these don’t directly concern children.

LCPP notes that LADO procedures should be applied when there is an allegation that any person who works with children:

* Has behaved in a way in their personal life that raises safeguarding concerns.
These concerns do not have to directly relate to a child but could, for example, include arrest for possession of a weapon or domestic abuse
* As a parent or carer, has become subject to child protection procedures

Is closely associated with someone in their personal lives (e.g. partner, member of the family or other household member) who may present a risk of harm to child/ren for whom the member of staff is responsible in their employment/volunteering – see Disqualification under the Childcare Act 2006, where a person's employment is covered by the Childcare Act 2006 (See definition in the statutory guidance: See 'Staff covered and relevant settings', Pages 6-8 in Statutory guidance, 'Disqualification under the Childcare Act 2006')

**Meetings/ Discussions in relation to allegations against staff in their personal lives**

The LCPP (S6.9) explains when a formal ASV meeting may be required to address, and risk assess staff who have come to our attention because of concerns in their personal lives.

If an allegation arises about a member of staff, outside of their work with children, and this may present a risk of harm/risk of harm to child/ren for whom the member of staff is responsible through their employment/volunteering, a meeting / discussion should be convened to decide whether the concern justifies:

* Approaching the member of staff's employer for further information, to assess the level of risk of harm; and / or
* Inviting the employer to a further meeting / discussion about dealing with the possible risk of harm.

If the member of staff lives in a different authority area to that which covers their workplace, liaison should take place between the relevant agencies in both areas and a joint meeting / discussion convened.

In some cases, an allegation of abuse against someone closely associated with a member of staff (e.g., partner, member of the family or other household member) may present a risk of harm to child/ren for whom the member of staff is responsible through their employment/volunteering. In these circumstances, a meeting / discussion should be convened to consider:

* The ability and/or willingness of the member of staff to adequately protect the child/ren.
* Whether measures need to be put in place to ensure their protection.
* Whether the role of the member of staff is compromised

LADO meetings offer a confidential space in which safeguarding concerns in a professional’s personal life can be shared safely and responsibly in order that the personnel department and employer has sufficient information both to support, and risk assess the employee subject to the concerns.

**Referral of an allegation**

When an allegation is made about a person working or volunteering with children, in a position of trust, it must be reported to LADO

Agencies should have appropriate policies and reporting structures in place to ensure that concerns regarding their staff and volunteers are escalated appropriately.

Partners should report to LADO within 24 hours when an allegation is made and prior to any further investigation taking place. A failure to report an allegation in accordance with procedures is a potential disciplinary matter. LADO will offer advice and consultation at this point about the nature of concerns, risk assessment and whether thresholds are met.

**Where thresholds are not met, see LADO consultations**.

If thresholds have been met, or seem to have been met, it is important that the LADO referral form is completed by the person holding the most information about the incident – usually the employer or Safeguarding Lead of the organisation. LADO may ask for further information or details to be provided. This will ensure that we have all the information relating to the individual, the child or young person in order to consider threshold and to complete a police referral (87A) as required.

Employers should submit the referral within 24 hours of hearing the concern. LADO will respond to the initial enquiry or referral within 24 hours.

LADO will advise the DSL or employer how and when to inform the individual of concern that an allegation has been made against them, and that this has been reported to LADO. Any further information shared with the individual at this stage must be agreed with LADO, particularly if a referral has been made to police.

The individual should also be given the contact details of a nominated person / employer who will keep them updated, as well as the details of the employee assistance scheme and advised to consult their union representative.

# Suspension

On referral, LADO should have discussions with the employer about the risk of the individual of concern remaining in their usual role. Consideration will be given to the risk posed to children & young people, as well as the risk to the individual of further repercussions.

Suspension should be considered only in cases where there is cause to suspect that a child or other children are at risk or that the case is so serious that it could represent grounds for dismissal.

Alternative arrangements to manage risk can include individuals:

* Redeployed / remain in role & regulated activity – remaining in usual role (regulated activity) while being moved to an alternative site or area to ensure that they do not have contact with the child/ren concerned.
* Supervised / remain in role – ensuring that an assistant is present when the individual has contact with children. Supervision may mean that this is no longer considered regulated activity.
* Redeployed / removed from role & regulated activity – being removed from regulated activity, either through being limited to alternative duties or working from home.

The decision about whether to suspend is the case manager’s (employer) alone, but LADO can offer a view in consultation with involved agencies: where police are involved, the case has reached criminal threshold. LADO will advise the employer to involve their Personnel or Human Resources Department at the earliest opportunity who should be involved in the allegations process from the outset of the allegation. If the matter relates to a Haringey employee, it is expected that Haringey Human Resource department work in parallel with the LADO and the manager in order to manage best safeguarding practices.

###

### **Police bail**

It should be noted that police guidelines on arrest have changed, police must establish that it is necessary to arrest individuals. There are a range of specific conditions that would make an arrest necessary, and most commonly for LADO investigations they are:

* To prevent physical harm. This includes harm to the person being arrested, whether from others or from themselves
* To protect a child or a vulnerable person. This includes both the physical and mental wellbeing of the person.
* To prevent the investigation of an offence or the prosecution of the suspect being hindered. For instance, if there was reason to believe the individual would not attend court following a summons, this would suggest an arrest necessity.

Cases may be dealt with by an interview under caution. The lack of an arrest can impact on the strength of the case to suspend someone so it is very important to have clear information about the police decision making process and why actions were and were not taken.

It is vital that representatives of all agencies who participate in the investigations of the allegations are present at the initial Allegations (ASV) Meeting.

**Schools and colleges - interim prohibition order**

In cases where a school or college is made aware that the Secretary of State has made an interim prohibition order in respect of an individual at the school or college, it will be necessary to immediately suspend that person from teaching pending the findings of the National College for Teaching and Leadership's (NCTL) investigation.

# LADO Response

There are up to four strands in the consideration of an allegation:

1. A police investigation of a possible criminal offence
2. LA Children's social care enquiries and/or assessment about whether a child needs protection or services
3. Consideration by an employer of disciplinary action in relation to possible performance/ conduct issues
4. Whether action in regard to the person making the allegation should be considered where the allegation has no foundation and may be malicious.

The LADO and the employer should consider first whether further details are needed and whether there is evidence or information that establishes that the allegation is false or unfounded.

If the allegation is not demonstrably false and there is cause to suspect that the individual poses a risk of harm, the LADO should convene an Allegations against Staff and Volunteers (ASV) meeting / discussion. This will sometimes have to take place immediately but the speed at which it is convened should be commensurate to the risk. It is recommended that this occurs within 5 working days where possible.

**Referring to Child Abuse Investigation Team (CAIT) Police via 87A**

LADO must consult police about any case in which a criminal offence may have been committed prior to the initial ASV meeting. The 87A should be sent to YHMailbox-ReferralsIn@met.police.uk either by the LADO or by the allocated social worker when appropriate.

This should be followed by a strategy conversation with the screening Detective Sergeant at CAIT to decide whether police will pursue an investigation.

If the police decide not to pursue the case, the LADO will request that the employer investigates the concerns, except in exceptional circumstances where there is reason to appoint an external investigator. In most cases where the allegations threshold has been met, an ASV meeting will be held to assist in planning any internal investigation and consider risk assessment.

S47 Strategy Meetings
In the event of a strategy meeting under S47, which involves a person in a position of trust, LADO must be invited to attend the strategy meeting. If the LADO is unavailable the strategy meeting minutes should be forwarded to the LADO.

**Allegations against Staff & Volunteers (ASV) management meetings**

Allegations against staff & volunteers management meetings are often referred to simply as ASV meetings.

An ASV meeting / discussion will decide the strategy for managing the allegation. Where necessary this will be a face-to-face meeting, more usually a virtual Microsoft Teams meeting. Many cases can be managed through a discussion between the designated safeguarding lead, the police, any other relevant agency, and the LADO. Where communication is via phone or email, records should be kept for audit purposes.

Where there is a larger number of people involved in the case, and where cases are complex, the benefit of convening a face-face meeting is increased.

An ASV meeting will normally only be convened when it has been decided that the threshold of harm/risk of harm has been met. Meetings should not be used to further investigate concerns about inappropriate behaviour or conduct where there are not clear indications of harm /risk of harm to a child.

The ASV will be chaired by the LADO. It will normally be attended by the police, a social worker for the child (where there is one), and the employer. The employer is advised to bring a human resources advisor. In situations where the allegation is against a health professional, the Designated Nurse for Safeguarding (Integrated Care Board / ICB) should be invited.

The meeting / discussion should:

* Decide whether there should be a s47 enquiry and / or police investigation
* Consider whether any parallel disciplinary process can take place and agree protocols for sharing information – in many cases, this will need to wait for police/LADO outcomes
* Consider the current allegation in the context of any previous allegations or concerns
* Where appropriate, take account of any entitlement by staff to use reasonable force to control or restrain children (e.g. [https://www.gov.uk/government/publications/use-of-reasonable-force-in-schools](https://www.gov.uk/government/publications/use-of-reasonable-force-in-schools%22%20%5Ct%20%22_blank))
* Consider whether a complex abuse investigation is applicable (see Organised and Complex Abuse Procedure)
* Plan enquiries if needed, allocate tasks and set timescales
* Decide what information can be shared, with whom and when.

The meeting /discussion should also:

* Ensure that arrangements are made to protect the child/ren involved and any other child/ren affected, including taking emergency action where needed
* Consider what support should be provided to all children who may be affected
* Consider what support should be provided to the member of staff and others who may be affected and how they will be kept up to date with the progress of the investigation
* Ensure that investigations are sufficiently independent
* Make recommendations where appropriate regarding suspension, or alternatives to suspension
* Identify a lead contact manager within each agency
* Agree protocols for reviewing investigations and monitoring progress by the LADO, having regard to the target timescales
* Consider issues for the attention of senior management (e.g. media interest, resource implications)
* Consider reports for consideration of barring
* Consider risk assessments to inform the employer's safeguarding arrangements
* Agree dates for future meetings / discussions.

Where appropriate, a final meeting /discussion should be held to ensure that all tasks have been completed, including any referrals to the DBS if appropriate, and, where appropriate, agree an action plan for future practice based on lessons learnt.

**Investigation**

In a joint investigation, the police will lead the investigation. In single agency cases, the employer will be asked to conduct an internal investigation. LADO oversees but does not conduct investigation.

The LADO and the employer should discuss whether disciplinary action is appropriate where:

* It is clear at the outset or decided by a meeting / discussion that a police investigation or local authority children's social care enquiry is not necessary;

 The discussion should consider any potential misconduct or gross misconduct on the part of the member of staff, and take into account:

* Information provided by the police and / or local authority children's social care;
* The result of any investigation or trial;
* The different standard of proof in disciplinary and criminal proceedings.

In order to prevent delay, it is vital that the Human Resource department for the employee, especially whether internal to Haringey CYPS or an external resource are involved at the outset of the allegation and involved from the beginning of the process.

# LADO Outcomes

The burden of proof for LADO is on balance of probability. The following definitions should be used when determining the outcome of allegation investigations:

* **Substantiated**: There is sufficient evidence to prove, on balance of probability, that the allegation that a child has been harmed or there is a risk of harm.
If the facts of the incident are found to be true but it is not found that a child has been harmed or there is a risk of harm, then consideration should be given to deciding that the outcome is 'unsubstantiated' or 'unfounded'.
* **Malicious**: There is sufficient evidence to disprove, on balance of probability, that the allegation and there has been a deliberate act to deceive. The police should be asked to consider what action may be appropriate in these circumstances.
* **False**: There is sufficient evidence to disprove the allegation, on balance of probability, however, there is no evidence to suggest that there was an deliberate intention to deceive.

False allegations may be an indicator of abuse elsewhere which requires further exploration.  If an allegation is demonstrably false, the employer, in consultation with the LADO, should refer the matter to LA children's social care to determine whether the child is in need of services, or might have been abused by someone else.

* **Unsubstantiated**: There is insufficient evidence, on balance of probability, to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.
* **Unfounded**: The additional definition of 'unfounded' can be used to reflect cases where there is no evidence or proper basis which supports the allegation being made. It might also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively, they may not have been aware of all the circumstances.

# Quality Assurance

## Timescales

It is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation.

The time taken to investigate and resolve individual cases depends on a variety of factors including the nature, seriousness and complexity of the allegation, but these targets should be achieved in all but truly exceptional cases.

It is expected that:

* 80 per cent of cases should be resolved within one month
* 90 per cent should be resolved within three months
* All but the most exceptional cases should be completed within 12 months.

## Monitoring progress

The LADO should monitor and record the progress of each case, either fortnightly or monthly depending on its complexity.  This could be by way of review meetings / discussions or direct liaison with the police, LA children's social care, or employer, as appropriate.  Where the target timescales cannot be met, the LADO should record the reasons.

The LADO should keep comprehensive records to ensure that each case is being dealt with expeditiously and that there are no undue delays. The records will also assist the safeguarding partnership to monitor and evaluate the effectiveness of the procedures for managing allegations and provide statistical information to the Department for Education (DfE) as required.

If a police investigation is to be conducted, the police should set a date for reviewing its progress and consulting the Crown Prosecution Service (CPS) about continuing or closing the investigation or charging the individual. Wherever possible, this should be no later than four weeks after the meeting / discussion.  Dates for further reviews should also be agreed, either fortnightly or monthly depending on the complexity of the investigation.

The organisation must make a referral to the Disclosure and Barring Service to consider whether to add the individual to the barred list. This applies irrespective of whether a referral has been made to local authority children's social care and/or the designated officer or team of officers. It is an offence to fail to make a referral without good reason.

# Historical Cases

Allegations of non-recent abuse should be responded to and reported in the same way as contemporary allegations. Any possible crimes need to be reported to police via 87a.

In cases of non-recent abuse, the person against whom the allegation is made may still be working with children and it will be important to investigate whether this is the case. Please note the Haringey guidance into Managing Historical Abuse – link

# Out of Borough LADO Cases

Haringey LADO should keep a record of any cases where the Lead is taken by another Local Authority LADO.

With more serious cases, where an ASV is convened in another borough and the individual of concern is linked in any way to Haringey, the Haringey LADO may attend that ASV.

Ordinarily, LADO cases are undertaken within the Borough where the incident occurred – usually the location of the worker’s employer. Sometimes, where one Borough holds more risk, they may opt to hold the LADO case, for example, if it concerns another borough’s foster carers and their LADO has more knowledge of the case.

Cases will often be relevant to more than one borough. For example, an allegation could be made against an agency worker who works across a number of boroughs and whose agency is based in a further borough.

Decisions about which LADO should take the lead are complex and should consider the following:

* Which agency holds the greatest risk? For example, if an agency worker has only worked one day in the school where the allegation has taken place and won't be returning, it might be that the employment agency holds the most risk:
* Where organisational is learning required? example, an agency worker may have only worked in a school for a day, but if the school did not follow good practice with the worker and this contributed to the incident, the greatest learning might be with the school.

Haringey LADO service will record allegations that are referred or are managed by another LADO. This is particularly important for Haringey children who are looked after and are not placed in our area. It is expected that Haringey LADO will be informed of children who have made allegations in another Local Authority and the outcome of the allegation process should be shared with Haringey LADO.

# Minors subject to allegations

These procedures should be followed where allegations are made against a 16 and 17 year-old who has been put in a position of trust by an organisation in relation to anyone under the age of 18. For example, where they might be involved in coaching a sport or in other school or out of school activities.

# Disciplinary Processes

The LADO and the employer should discuss whether disciplinary action is appropriate when:

* It is clear at the outset or decided by a meeting / discussion that a police investigation or LA children's social care enquiry is not necessary
* The employer or the LADO is informed by the police or the Crown Prosecution Service that a criminal investigation and any subsequent trial is complete, or that an investigation is to be closed without charge, or a prosecution discontinued.

The discussion should consider any potential misconduct or gross misconduct on the part of the member of staff, and be taken into account:

* Information provided by the police and / or LA children's social care
* The result of any investigation or trial
* The different standard of proof in disciplinary and criminal proceedings.

In the case of supply, contract and volunteer workers, normal disciplinary procedures may not apply.  In these circumstances, the LADO and employer should act jointly with the providing agency, if any, in deciding whether to continue to use the person's services, or provide future work with children, and if not, whether to make a report for consideration of barring or other action. See Substantiated allegations and referral to the DBS.

If a disciplinary hearing is required, and further investigation is not required, it should be held within the timeframe laid out in the employer's procedures.

If formal disciplinary action is not required, the employer should meet the employee, discuss fully the outcome of the allegation and ensure they are reintegrated into the work environment.

## Further investigation

If further investigation is needed to decide upon disciplinary action, the designated safeguarding lead and the LADO should discuss whether the employer has appropriate resources or whether the employer should commission an independent investigation because of the nature and/or complexity of the case and to ensure objectivity. The investigation should not be conducted by a relative or friend of the member of staff.

The aim of an investigation is to obtain, as far as possible, a fair, balanced and accurate record in order to consider the appropriateness of disciplinary action and / or the risk of harm to children. Its purpose is not to prove or disprove the allegation.

If, at any stage, new information emerges that requires a child protection referral, the investigation should be held in abeyance and only resumed if agreed with LA children's social care and the police. Consideration should again be given as to whether suspension is appropriate in light of the new information.

The investigating officer should aim to provide a report within ten working days.

On receipt of the report the employer should follow their disciplinary procedures.

## Sharing information for disciplinary purposes

Wherever possible, police and LA children's social care should, during the course of their investigations and enquiries, obtain consent to provide the employer and/or regulatory body with statements and evidence for disciplinary purposes.

If the police or CPS decide not to charge, or decide to administer a caution, or the person is acquitted, the police should pass all relevant information to the employer without delay.

If the person is convicted, the police should inform the employer and the LADO straight away so that appropriate action can be taken.

## Resignations and 'compromise agreements'

Every effort should be made to reach a conclusion in all cases even if:

* The individual refuses to cooperate, having been given a full opportunity to answer the allegation and make representations.
* It may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete.

'Settlement agreements' (sometimes referred to as compromise agreements), by which a person agrees to resign if the employer agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, should not be used in cases of refusal to cooperate or resignation before the person's notice period expires. A settlement/compromise agreement which prevents the employer from making a DBS referral when the criteria are met for so doing would likely result in a criminal offence being committed for failure to comply with the duty to refer. Nor should they be used as a way of concluding any disciplinary investigation where there is a substantiated outcome. Such an agreement will not prevent a thorough police investigation where that is appropriate.

The organisation must make a referral to the Disclosure and Barring Service to consider whether to add the individual to the barred list. This applies irrespective of whether a referral has been made to local authority children's social care and/or the designated officer or team of officers. It is an offence to fail to make a referral without good reason.

## Learning lessons

The employer and the LADO should review the circumstances of the case to determine whether there are any improvements to be made to the organisation's procedures or practice. Lessons learned will be noted in the case records and minutes of meetings.

# References

Cases in which an allegation was proven to be false, unsubstantiated, or malicious should not be included in employer references. A history of repeated concerns or allegations which have all been found to be false, unsubstantiated, or malicious should also not be included in any reference.

# Data Retention and Access to Records

## LADO Records

LADO must keep a comprehensive and restricted record of all allegations made to LADO that meet LADO threshold at the point of referral.

These records must be stored on Mosaic to enable continuity of access, and appropriate audit and oversight. The Director of CYPS, Safeguarding AD, MASH managers, EDT managers, and Heads of Services are given access to LADO records if LADO is unavailable. Other individuals will be given access on a case-by-case basis; the case should be made to SQIP Head of Service.

The required data retention period of LADO records by CYPS is until the individual of concern turns 65 or 10 years after employment date, whichever is longer.

Given that LADO case notes and workflows are restricted, LADO will make an unrestricted case note indicating ‘LADO contact’ on the casefile of individuals against whom an allegation is made and children who are linked to an allegation, to prompt workers to contact LADO for more information. All CYPS staff must recognise that LADO contact does not denote guilt, but rather indicates that further information should be sought from LADO to obtain a fuller picture.

Employers must inform individuals that an allegation has been made against them and that a referral to LADO has been made. LADO is not required to re-notify members of staff.

## Employer Records

Employers should be advised by LADO to remove details of allegations from personnel records where they are found to be malicious.

For all other allegations, it is important that employers retain a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, on the confidential personnel file of the accused, and that a copy is provided to the person concerned.

The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where future DBS checks reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time.

The record should be retained at least until the accused has reached normal pension age (65) or for a period of 10 years from the date of the allegation if that is longer. The Information Commissioner has published guidance on employment records in its Employment Practices Code and supplementary guidance, which provides some practical advice on record retention.

# Regulatory Referral

## Referral to the Disclosure and Barring Service (DBS)

There is a legal requirement for employers to make a referral to the DBS if the employer believes an individual:

* has engaged in conduct that harmed (or is likely to harm) a child;
* otherwise poses a risk of harm to a child;
* if there is an investigation and the outcome is substantiated either by criminal investigation or by the balance of probabilities
* If an allegation is substantiated and the person is dismissed or the employer ceases to use the person's service or the person resigns or otherwise ceases to provide his/her services

The guidance regarding making a referral - available on the [Disclosure and Barring Service website](https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs).

WTSC 18, Chapter 2 §8—9, notes that if an organisation or agency removes an individual (paid worker or unpaid volunteer) from work in regulated activity with children (or would have, had the person not left first) because the person poses a risk of harm to children, the organisation or agency must make a referral to the Disclosure and Barring Service to consider whether to add the individual to the barred list.

This applies irrespective of whether a referral has been made to local authority children’s social care and/or the designated officer or team of officers**.**

It is an offence to fail to make a referral to DBS without good reason.

The following groups have legal **duty** to refer information to the DBS:

* Regulated activity suppliers (employers and volunteer managers)
* Personnel suppliers that may be an employment agency, employment business or an educational institution

The following groups have the **power** to refer information to the DBS; The power to refer may be used when a local authority or regulatory body is acting in a role other than as a regulated activity provider, for example, when undertaking a safeguarding role:

* Local authorities
* A Health and Social care (HSC) trust
* Education and Library Boards
* Keepers of registers e.g. General Medical Council, Nursing and Midwifery Council, Social Work England, Wales and Northern Ireland
* Supervisory authorities e.g. Care Quality Commission, Ofsted. in England, Wales and Northern Ireland

The DBS will refer cases involving teachers to the [Teaching Regulation Agency](https://www.gov.uk/government/organisations/teaching-regulation-agency).

See the [DBS referral guidance and tools](https://www.gov.uk/government/collections/dbs-referrals-guidance--2)

Whenever a local authority refers a person to the DBS, they must consider whether they are doing so under the duty to refer or their power to refer.

## Notifying Ofsted

Ofsted should be informed of any allegation or concern made against a **member of staff in any day care** establishment for children under 8 or against a registered **childminder**. They should also be invited to take part in any subsequent meeting / discussion.

A senior manager of the employer or fostering agency should inform Ofsted of all allegations made against a **foster carer**, **prospective adopter**, or **member of staff in a residential childcare facility**. There are established notification processes in place.