



North East Lincolnshire Safeguarding Children Partnership  
Policy and Procedures

# Managing allegations against people who work with children

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## 1. Introduction

Children can be subjected to abuse by those who work with them in any setting. All allegations of abuse or maltreatment of children by a professional, staff member, volunteer, foster carer including private foster carer, prospective adopter and any other member of their household must be taken seriously and treated in accordance with North East Lincolnshire Safeguarding Children Partnership policy and procedures.

This policy and procedure applies to all organisations in North East Lincolnshire that either provide services for children or provide staff or volunteers to work with or care for children and young people. All organisations providing services, staff or volunteers to work with or care for children should operate within these procedures.

All such organisations should also have their own policy and procedures in line with this policy and procedures for dealing with allegations against people who work with children. Such policies should make a clear distinction between an **allegation, a concern about the quality of care or practice** or a **complaint**. All references within this document to people who work with children, employment, relevant person and / or member of staff should be interpreted as meaning all paid or unpaid staff, supply staff and volunteers and this includes Foster Carers and prospective Adopters.

All references to **employers** should be interpreted as meaning any agency or organisation with responsibility for paid or unpaid staff and volunteers, including Foster Carers and prospective Adopters. All references to child, children or young people refers to persons under the age of 18 years, in this document referred to as “child”.

Dealing with allegations against people who work with children defined in Working Together 2018 as 'People in Positions of Trust'.

Keeping Children Safe in Education 2021 outlines additional roles and responsibilities to be undertaken when responding to allegations against teachers, members of staff or volunteers in schools or colleges that provide education for children under 18 years.

Where applicable this policy should be read in conjunction with Designated Adults Safeguarding Manager (DASM) process, for the Management of Allegations Against People in a Position of Trust (PiPoT) i.e. anyone working in either a paid or unpaid capacity, with adults who have care and support needs, This is available on the North East Lincolnshire's Safeguarding Adults Board (SAB) website.

## 2. Scope

The scope of these procedures applies to a wider range of allegations than those in which there is reasonable cause to believe a child is suffering, or is likely to suffer, significant harm. The procedures extend to cases of allegations that might indicate that s/he is unsuitable to continue to work with children in their present position.

In line with Working Together 2018 and Keeping Children Safe in Education 2021 these procedures should be used in respect of all cases in which it is alleged that a person who works with children 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 they 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

This is in connection with the person's employment or voluntary activity.

These procedures may also be used where concerns arise about a person's behaviour in regard to his/her own children or a person's behaviour in their personal life which may impact upon the safety of children to whom they owe a duty of care.

**Harm** is defined in Section 31(9) of the Children Act 1989 as amended by the Adoption and Children Act 2002. Harm means ill-treatment or impairment of health or development including for example impairment suffered from seeing or hearing the ill-treatment of another. This therefore includes allegations in relation to sexual, physical, emotional harm and / or neglect. Both Working Together 2018 and Keeping Children Safe in Education 2021 include definitions and examples of the above categories of abuse and further examples are outlined below. This procedure can also be used where there appears to be a pattern of behaviour that causes repeated low-level concerns about a person, or an organisation.

In addition to definitions outlined in Working Together 2018 and Keeping Children Safe in Education 2021:

**Sexual harm** could include allegations of inappropriate sexual behaviour including, but not limited to:

- Engaging in sexual activity with a child under 18 if in a position of trust in respect of that child, even if consensual (Sections 16-19 Sexual Offences Act 2003);
- Grooming - meeting a child under 16 with intent to commit a relevant offence (Section 15 Sexual Offences Act 2003);

- Other grooming behaviour giving rise to concerns of a broader child protection nature (for example: inappropriate communication and contact - texts, e-mail messages or the sending or receiving of images and gifts)
- Possession, distribution and/or making of indecent photographs / pseudo-photographs of children.

**Physical harm** could include, but not limited to:

- Hitting or throwing something at a child.
- Restraints where, for example, the force used was unreasonable or disproportionate, where the restraint was unwarranted in the circumstances, or could have been reasonably avoided, or where the injuries are not consistent with the level of force reported.
- Cases when seclusion has been used in other than exceptional circumstances.

**Emotional harm** could include, but is not limited to:

- Deliberately silencing or making fun of what children are saying or how they communicate;
- Serious bullying causing children to feel frightened or in danger

**Neglect** could include, but is not limited to:

- Failing to provide adequate supervision
- Failing to ensure access to appropriate medical care or treatment

#### **Transferable Risk and/or Suitability to Work with Children**

When considering if the person who works with children has **behaved or may have behaved in a way that indicates they may not be suitable to work with children**, the following are examples of safeguarding concerns that could be considered:

- Sexual offence towards an adult
- Physical assault of an adult
- Perpetrator of domestic abuse
- Drug offences
- Attending work under the influence of drugs or alcohol
- Where they are closely associated with someone in their personal lives who may present a risk of harm to a child
- Discriminatory or prejudicial behaviour towards adults
- Significant mental health issues where the person may not be currently fit to work with children
- Serious animal cruelty offences
- Firearms offences
- When, as a parent or carer, their children have become subject to child protection procedures

This will enable an assessment to be undertaken where there are concerns of transferability of risk to children they work or volunteer with.

The examples provided are not exhaustive and if in doubt, seek advice from the LADO.

The term **employer** is used within these procedures to refer to organisations that have a working relationship with the individual against whom the allegation is made. This includes organisations that use the services of volunteers, or people who are self-employed, as well as service providers, voluntary organisations, employment agencies or businesses, contractors, fostering and adoption services, regulatory bodies such as Ofsted in the case of child minders and others that may not have a direct employment relationship with the individual, but will need to consider whether to continue to use the person's services, or to provide the person for work with children in future or to deregister the

individual. These procedures apply to those working with children on a temporary, supply or locum basis.

Also, in some circumstances the term 'employer' for these purposes will encompass more than one organisation. For example, where staff providing services for children in an organisation are employed by a contractor, or where temporary staff are provided by an agency. In those circumstances both the contractor or agency and the organisation in which the accused individual worked will need to be involved in dealing with the allegation.

Allegations of historical abuse including those cases of an organised or multiple nature should be responded to in the same way as contemporary concerns. In those cases, it is important to find out whether the accused person is still working with children and if so to follow this policy and procedures. Historical allegations of abuse against a child should be referred to the police and Children's Services. Historical allegations of abuse made by an adult which relate to when they were a child should be referred to the police. When undertaking investigations people should be alert to any sign or pattern which suggests that the abuse is more widespread and organised than it appears at first sight, or that it involves other perpetrators or institutions. It is important not to assume that initial signs will necessarily be related directly to abuse, and to consider occasions where boundaries have been blurred, inappropriate behaviour has taken place, and matters such as fraud, deception or pornography have been involved.

Some cases will also need to be referred to the Disclosure and Barring Service (DBS) for consideration of including the person on the DBS barred list for working with children or for consideration by professional bodies or regulators.

There may be up to 3 strands in the consideration of an allegation:

- a police investigation of a possible criminal offence
- enquiries and assessment by Children's Services about whether a child is in need of protection or in need of services and
- consideration by an employer of disciplinary action in respect of the individual.

### 3. The Difference Between an Allegation of Harm 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 has to be sufficiently serious as to suggest that harm has or may have been caused harm to a child/ren or that the alleged behaviour indicates the individual may pose a risk of harm to children (or otherwise meet the criteria above).

Keeping Children Safe in Education

([https://www.keepingchildrensafeineducation.co.uk/part\\_four\\_alleg.html#sectiontwo](https://www.keepingchildrensafeineducation.co.uk/part_four_alleg.html#sectiontwo)) provides this definition of a low-level concern:

*The term 'low-level' concern does not mean that it is insignificant. A low-level concern is any concern – no matter how small, and even if no more than causing a sense of unease or a 'nagging doubt' - that an adult working in or on behalf of the school or college may have acted in a way that:*

- *Is inconsistent with the staff code of conduct, including inappropriate conduct outside of work; and*
- *Does not meet the harm threshold or is otherwise not serious enough to consider a referral to the LADO.*

*Examples of such behaviour could include, but are not limited to:*

- *Being over friendly with children;*
- *Having favourites;*
- *Taking photographs of children on their mobile phone, contrary to school policy;*
- *Engaging with a child on a one-to-one basis in a secluded area or behind a closed door; or*
- *Humiliating pupils.*

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.

Keeping Children Safe in Education, Part 4, Section 2 provides that if there is any doubt as to whether the information which has been shared about a member of staff as a low-level concern in fact meets the harm threshold and thus should be treated as an allegation, the LADO should be consulted.

**As good practice**, agencies may wish to include the LADO in discussions as to whether the issue should be dealt with as an allegation of harm or a concern. If the decision is reached that the concern falls short of the harm threshold, there may still be a role for the LADO to provide advice and support to the employer. Such a consultation process may allow 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 LSCP.

Schools and colleges should have policies and processes to deal with low-level concerns which do not meet the harm threshold, and should ensure that they promote an open and transparent culture in which **all** concerns about all adults working in or on behalf of the school or college (including supply teachers, volunteers and contractors) are dealt with promptly and appropriately..

Keeping Children Safe in Education ([https://www.keepingchildrensafeineducation.co.uk/part\\_four\\_alleg.html#sectiontwo](https://www.keepingchildrensafeineducation.co.uk/part_four_alleg.html#sectiontwo)) sets out the following in relation to concerns that do not meet the harm threshold/low-level concerns. Whilst this guidance is directed at schools and colleges, it may be of interest to other agencies:

### **Sharing low-level concerns**

Schools and colleges should ensure that their low-level concerns policy contains a procedure for sharing confidentially such concerns which is clear, easy to understand and implement. Whether all low-level concerns are shared initially with the Designated Safeguarding Lead (DSL) or with the headteacher/principal is a matter for the school or college to decide. If the former, then the DSL should inform the headteacher/principal of all the low-level concerns and in a timely fashion according to the nature of each particular low-level concern. The headteacher/principal should be the ultimate decision-maker in respect of all low-level concerns, although it is recognised that depending on the nature of some low-level concerns and/or the role of the DSL in some schools/colleges, the headteacher/principal may wish to consult with the DSL and take a more collaborative decision-making approach.

Low-level concerns which are shared about supply staff and contractors should be notified to their employers, so that any potential patterns of inappropriate behaviour can be identified.

### **Recording low-level concerns**

All low-level concerns should be recorded in writing. The record should include details of the concern, the context in which the concern arose, and action taken. The name of the individual sharing their concerns should also be noted, if the individual wishes to remain anonymous then that should be respected as far as reasonably possible.

Schools and colleges can decide where these records are kept, but they must be kept confidential, held securely and comply with the Data Protection Act 2018 and the UK General Data Protection Regulation (UK GDPR).

Records should be reviewed so that potential patterns of concerning, inappropriate, problematic or concerning behaviour can be identified. Where a pattern of such behaviour is identified, the school or college should decide on a course of action, either through its disciplinary procedures or where a pattern of behaviour moves from a low-level concern to meeting the harm threshold, in which case it should be referred to the LADO. Consideration should also be given to whether there are wider cultural issues within the school or college that enabled the behaviour to occur and where appropriate policies could be revised, or extra training delivered to minimise the risk of it happening again.

It is for schools and colleges to decide how long they retain such information, but it is recommended that it is retained at least until the individual leaves their employment.

### **Responding to low-level concerns**

The school or college low-level concerns policy should set out the procedure for responding to reports of low-level concerns. If the concern has been raised via a third party, the headteacher/principal (or a nominated deputy) should collect as much evidence as possible by speaking:

- Directly to the person who raised the concern, unless it has been raised anonymously; and
- To the individual involved and any witnesses.

The information collected will help them to categorise the type of behaviour and determine what further action may need to be taken. This information needs to be recorded in writing along with the rationale for their decisions and action taken.

More detailed guidance and case studies on low-level concerns can be found in [Developing and Implementing a Low-level Concerns Policy \(Farrer & Co.\)](https://www.farrer.co.uk/news-and-insights/developing-and-implementing-a-low-level-concerns-policy-a-guide-for-organisations-which-work-with-children2/) (<https://www.farrer.co.uk/news-and-insights/developing-and-implementing-a-low-level-concerns-policy-a-guide-for-organisations-which-work-with-children2/>)

## **4. Concern about the quality of Care or Practice**

Concerns about the quality of care or practice given to a child should be reported to the agency providing the care or service. Agencies own procedures rather than these procedures will be followed. Some professionals working in services for children have to be registered and meet standards of competence, practice, conduct and ethics.

Section 11 of the Children Act 2004 places duties on a range of organisations and individuals to ensure their functions, and any services that they contract out to others, are discharged having regard to the need to safeguard and promote the welfare of children.

This includes clear whistleblowing procedures, which reflect the principles in Sir Robert Francis's



Freedom to Speak Up review and are suitably referenced in staff training and codes of conduct, and a culture that enables issues about safeguarding and promoting the welfare of children to be addressed. See Working Together 2018.

## 5. Complaint

Agencies will have different procedures for responding to complaints as opposed to allegations. Care needs to be taken to ensure that correct procedures are followed. For example, local authorities have procedures to deal with complaints from children and young people or from people complaining on their behalf such as parents and guardians. The National Health Service and each police force have a complaints procedure. Some organisations also provide advocates who can help when a child or someone on their behalf wishes to make a complaint.

As a general guide, **allegations** refer to information or concerns which suggest a **child/children have been avoidably hurt or harmed by an adult, who owed them a duty of care.**

## 6. Advice and Guidance

In North East Lincolnshire, the Local Authority Designated Officer (LADO) or Deputy LADO's will be available to provide advice and guidance to employers and voluntary organisations regarding how to deal with allegations, or concerns which are thought to fall within the scope of these procedures about an employee or volunteer who works with children.

## 7. Principles

The welfare of children is paramount. Employers have a duty of care to their employees. They should ensure they provide effective support for anyone facing an allegation and provide the employee with a named contact if they are suspended. It is essential that any allegation of abuse made against a member of staff or volunteer is dealt with very quickly, in a fair and consistent way that provides effective protection for the child and at the same time supports the person who is the subject of the allegation.

It is the responsibility of all adults to safeguard and promote the welfare of children and young people. This responsibility extends to a duty of care for those adults employed, commissioned, contracted, or doing voluntary work with children and young people.

## 8. Organisational Responsibilities

Working Together 2018 states:

*Organisations and agencies working with children and families should have clear policies for dealing with allegations against people who work with children. Such policies should make a clear distinction between an allegation, a concern about the quality of care or practice or a complaint. An allegation may 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*
- *behaved towards a child or children in a way that indicates they 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*

*County level and unitary local authorities should ensure that allegations against people who work with children are not dealt with in isolation. Any action necessary to address corresponding welfare concerns in relation to the child or children involved should be taken without delay and in a co-ordinated manner. Local authorities should, in addition, have designated a particular officer, or team of officers (either as part of local multi-agency arrangements or otherwise), to be involved in the management and oversight of allegations against people who work with children. Any such officer, or*

*team of officers, should be sufficiently qualified and experienced to be able to fulfil this role effectively, for example, qualified social workers. Any new appointments to such a role, other than current or former designated officers moving between local authorities, should be qualified social workers. Arrangements should be put in place to ensure that any allegations about those who work with children are passed to the designated officer, or team of officers, without delay.*

*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. Local authorities should also ensure that there are appropriate arrangements in place to liaise effectively with the police and other organisations and 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.*

*Employers, school governors, trustees and voluntary organisations should ensure that they have clear policies in place setting out the process, including timescales for investigation and what support and advice will be available to individuals against whom allegations have been made. Any allegation against people who work with children should be reported immediately to a senior manager within the organisation or agency. The designated officer, or team of officers, should also be informed within one working day of all allegations that come to an employer's attention or that are made directly to the police.*

*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 without good reason.*

## **9. The LADO Role**

The LADO will:

- receive LADO referrals about allegations relevant to this procedure and be involved in the management and oversight of such cases, including chairing Allegation Management Meetings (AMM)
- Provide advice and guidance to employers and voluntary organisations via LADO referral and/or LADO initial consultation
- Liaise with police and other agencies
- Monitor the progress of cases to ensure they are dealt with as quickly as possible, consistent with a thorough and fair processes
- Provide advice and guidance to employers, organisations and regulated activity providers and personnel suppliers in relation to making referrals to the Disclosure and Barring Service (DBS) and/or to relevant regulatory bodies includes Ofsted

The LADO **does not** investigate allegations; this responsibility lies with the employer/ organisation and/or the police. The LADO is independent and does not have a decision-making role. The LADO doesn't communicate with the accused or the alleged victim or their families, but ensures that those investigating maintain communication, and are provided with updates that are relevant. This also includes the accused and the victim being informed of the outcome of the allegation process.

The LADO referral should be made to the LADO in the Local Authority where the accused is employed. The LADO where the accused is employed, will retain responsibility of overseeing that allegation to conclusion, however in cases where the accused may work across different Local Authorities, a joint LADO meeting may take place. The LADO will also liaise with a LADO for another Local Authority where

there is an allegation that covers more than one Local Authority area.

#### 10. The Managing Allegation Process

The managing allegation process is a strictly confidential information sharing process, considering all information relevant to understand the allegation via evaluation of the three different Investigation strands. Consideration of safeguarding children includes the alleged victim, the children of the accused and any other children they may come into contact with professionally and personally. This consideration must be proportionate, to the presenting risks evidenced from the three investigation strands, and the LADO will ensure this is completed without delay, and in a co-ordinated way by those who have responsibility. The allegation outcome is reached at the conclusion of all investigations. It is based upon the evidence and facts gathered from those investigations, that inform the investigation outcomes. Therefore, the allegation outcome, is a proportionate reflection of those investigation outcomes. The outcome is reached on the “on the balance of probability”.

The accused person has a right to reply to allegations against them within those different investigation stands. If the accused doesn't feel that their account has been gathered or has not been given opportunity to present their case and evidence, they should make a complaint to the organisation investigating so it can be considered within the correct process. It is not the LADO's role to consider the accused evidence directly, it is the responsibility of the organisations investigating.

To make a referral to the LADO in North East Lincolnshire see Appendix 3 the LADO referral form.

#### 11. North East Lincolnshire Safeguarding Children Partnership Role

The **North East Lincolnshire Safeguarding Children Partnership** has responsibility to develop policies and procedures for safeguarding and promoting the welfare of children in their area in relation to investigation of allegations concerning persons working with children.

#### 12. North East Lincolnshire Safeguarding Children Partnership relevant agencies and other agencies included within the arrangements

In North East Lincolnshire, the Safeguarding Children Partnership relevant agencies and those included within the Safeguarding Children Partnership arrangements should have Named Senior Officers who have overall responsibility for:

- ensuring that the organisation operates clear policies in line with this policy for dealing with allegations against people who work with children. Such policies should make a clear distinction between an **allegation, a concern about the quality of care or practice** or a **complaint**
- resolving any multi agency issues
- liaison with the **North East Lincolnshire Safeguarding Children Partnership** on the subject

In addition, the Named Senior Officer or their Deputy/Delegated Manager will be responsible for:

- referring to the LADO
- gathering any additional information required
- taking part in any strategy discussion or Allegation Management Meetings (AMM) as appropriate
- progressing the case jointly with the LADO and others

For contact details of agencies Named Senior Officers and Deputies please contact the Childrens Safeguarding & Reviewing Service on 01472 326118.

#### 13. County level and Unitary Local Authorities

In North East Lincolnshire there is a Designated LADO and Deputy LADO's who are involved in the management and oversight of allegations against people who work with children. These LADO's are situated within the Childrens Safeguarding & Reviewing Service with the overall LADO responsibility delegated to the Service Manager who will delegate specific tasks to Deputy LADO's when required.

They are responsible for:

- providing advice and guidance on how to deal with allegations to employers and voluntary organisations
- ensuring any action necessary to address corresponding welfare concerns in relation to the child or children involved is taken without delay and in a coordinated manner
- effectively liaising 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
- involvement in the management and oversight of allegations.

All LADO's are qualified and registered Social Workers.

The LADO service will report annually to the North East Lincolnshire Safeguarding Children Partnership evidencing commonality and trends. The report will be analytical, have actions and will be SMART. In order to do this the LADO annual report will:

- consider individual, regional and National work carried out
- include statistics that enable the safeguarding partnership to see broadly which agency allegations came from and who they are about, how they have been investigated and the outcome
- The report will aim to identify trends and qualitative data to explain these, areas of concerns and areas for future development

The LADO and Deputy LADO's can be contacted at the Childrens Safeguarding & Reviewing Service on 01472 326118.

#### 14. Police Forces

Police forces should have clear policies in line with those from the **North East Lincolnshire Safeguarding Children Partnership** for dealing with allegations against people who work with children. There should be a Named Senior Officer:

- to have strategic oversight of the arrangements
- liaise with the **North East Lincolnshire Safeguarding Children Partnership** in the force area and
- ensure compliance.

Police forces should also identify Designated Liaison Officers who are responsible for:

- liaising with the LADO
- taking part in any strategy discussion or Allegation Management Meetings (AMM)
- subsequently reviewing the progress of those cases in which there is a police investigation and
- sharing information on completion of the investigation or any prosecution.

The Detective Chief Superintendent of the Protecting Vulnerable People Unit will fulfil the Named Senior Officer role. Other Police Officers including Detective Inspectors, Detective Sergeants or Detective Constables from the Protecting Vulnerable People Unit will liaise with the LADO and attend strategy discussions or Allegation Management Meetings (AMM) as appropriate.

The police will follow the procedures in accordance with the Major Investigation and Public Protection – Risk and Associated Investigations, Authorised Professional Practice and Major Investigation and Public Protection - Investigating Child Abuse and Safeguarding Children, Authorised Professional Practice (College of Policing).

In all allegation cases this should be managed in accordance with this policy and procedures and notified to the LADO.

#### **15. All Schools and Further Education Colleges**

All schools and colleges should have procedures for dealing with allegations in line with this policy and procedures and part four of Keeping Children Safe in Education.

‘School’ means all schools whether maintained, non-maintained or independent schools, including academies and free schools, alternative provision academies, maintained nursery schools and pupil referral units. ‘College’ means further education colleges and sixth-form colleges as established under the Further and Higher Education Act 1992 and relates to their responsibilities towards children under the age of 18, but excludes 16-19 academies and free schools (which are required to comply with relevant safeguarding legislation by virtue of their funding agreement).

The procedures should make it clear that all allegations should be reported immediately and in the first instance to the head teacher or principal, or where the head teacher or principal is the subject of an allegation, the chair of governors, chair of the management committee or proprietor of an independent school (the ‘case manager’) who should immediately discuss the allegation with the LADO. Procedures should also include contact details for the LADO responsible for providing advice and guidance on how to deal with allegations and who is involved in the management and oversight of allegations.

#### **16. All Organisations**

Other employers’ procedures should identify a Named Senior Officer within the organisation to whom allegations or concerns against a member of staff or volunteer should be reported and should make sure that all staff and volunteers know who that is. The procedures should also identify an alternative person to whom reports should be made in the absence of the Named Senior Officer, or in cases where that person is the subject of the allegation or concern and include contact details for the LADO.

The Named Senior Officer within the organisation has overall responsibility for:

- ensuring procedures are properly applied and implemented; and
- providing advice, information and guidance for staff within the organisation.

#### **17. Independent Service Providers**

Independent Service Providers within the North East Lincolnshire area will provide details of their Named Senior Officer and their deputy upon request by the LADO, Police or Children’s Services.

For independent services that are commissioned by North East Lincolnshire Council out of the local authority area, at the point that the service is agreed the service will be written to by the North East Lincolnshire Council Commissioning Team and asked to provide the name of the Named Senior Officer and their deputy within their organisation.

#### **18. Supporting those Involved**

#### **19. Employees and Volunteers**

Employers have a duty of care to their employees. They should act to manage and minimise the stress inherent in the allegations process. Support for the individual is vital to fulfilling this duty. Individuals should be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action, unless there is an objection by the Children's Services or the police. The individual should be advised to contact their trade union representative, if they have one, or a colleague for support. They should also be given access to health and well-being services where this is provided by the employer.

The employer should appoint a named representative to keep the person who is the subject of the allegation informed of the progress of the case and consider what other support is appropriate for the individual. Particular care needs to be taken when employees are suspended to ensure that they are kept informed of both the progress of their case and current work-related issues. Social contact with colleagues and friends should not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

## **20. Parents, Carers and Children**

Parents or carers of a child or children involved should be told about the allegation as soon as possible if they do not already know of it. In circumstances in which the Police or Children's Services may need to be involved, the LADO should consult about how best to inform parents.

The child or children concerned should receive appropriate support. In cases where a child may have suffered significant harm, or there may be a criminal prosecution, Children's Services, or the Police as appropriate should consider what support the child or children involved may need.

Children and their parents or carers should be helped to understand the process, kept informed about the progress of a case, told the result of any enquiry or disciplinary process and where necessary helped to understand the outcomes reached. The provision of information and advice must take place in a manner that does not impede the proper exercise of enquiry, disciplinary or investigative processes. The deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, cannot normally be disclosed, but those concerned should be told the outcome. Parents and carers should also be made aware of the prohibition on reporting and publishing allegations against teachers in the Education Act 2002. If parents or carers wish to apply to the court to have reporting restrictions removed, they should be told to seek legal advice.

In deciding what information to disclose, careful consideration should be given to duties under the Data Protection Act 2018, the law of confidence and, where relevant, the Human Rights Act 1998.

## **21. Confidentiality**

Every effort should be made to maintain confidentiality and guard against publicity while an allegation is being investigated or considered.

In accordance with the Association of Chief Police Officers (ACPO) guidance the police will not normally provide any information to the press or media that might identify an individual who is under investigation, unless and until the person is charged with a criminal offence. In exceptional cases where the police would like to depart from that rule, for example an appeal to trace a suspect, they must apply to a magistrates court to request that reporting restrictions be lifted.

The Education Act 2002 introduced reporting restrictions preventing the publication of any material that may lead to the identification of a teacher who has been accused by, or on behalf of, a pupil from the same school (where the identification would identify the teacher as the subject of the

allegation). The reporting restrictions apply until the point that the accused person is charged with an offence, or until the Secretary of State publishes information about an investigation or decision in a disciplinary case arising from the allegation. The reporting restrictions also cease to apply if the individual to whom the restrictions apply effectively waives their right to anonymity by going public themselves or by giving their written consent for another to do so or if a judge lifts restrictions in response to a request to do so. The provisions commenced on 1 October 2012.

The legislation imposing restrictions make clear that 'publication' of material that may lead to the identification of the teacher who is the subject of the allegation is prohibited. 'Publication' includes any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public. This means that a parent for example, published details of the allegation on a social networking site would be in breach of the reporting restrictions (if what was published could lead to the identification of the teacher by members of the public).

It is essential that any media implications are taken into consideration within strategy discussions or Allegation Management Meetings (AMM).

The Named Senior Officer should take advice from the LADO, Police and Children's Services to agree the following:

- who needs to know and, importantly, what information can be shared
- how to manage speculation, leaks and gossip
- what, if any information can reasonably be given to the wider community to reduce speculation
- how to manage press interest if and when it should arise.

## **22. Supplementary Guidance for Specialist Issues**

Where there are concerns about the welfare of a child or children, it may be that particular issues have to be considered which are of a specialist nature. These particular issues may mean that specialist advice and/or provision is necessary for a child or children. Two particular issues are abuse of disabled children and complex (organised or multiple) abuse and consideration to these issues is given.

## **23. Abuse of Disabled Children**

The available UK evidence on the extent of abuse among disabled children suggests that disabled children are at increased risk of abuse and that the presence of multiple disabilities appears to increase the risk of both abuse and neglect for a number of reasons:

- many disabled children are at an increased likelihood of being socially isolated with fewer outside contacts than non-disabled children
- their dependency on parents and carers for practical assistance in daily living including intimate personal care, increases their risk of exposure to abusive living
- they have impaired capacity to resist or avoid abuse
- they may have speech, language and communication needs which may make it difficult to tell others what is happening
- they often do not have access to someone they can trust to disclose that they have been abused
- they are especially vulnerable to bullying and intimidation
- looked after disabled children are not only vulnerable to the same factors that exist for all children living away from home, but are particularly susceptible to possible abuse because of their additional dependency on residential or hospital staff for their day to day physical care needs.

Safeguards for disabled children are essentially the same as for non-disabled children. Where there are concerns about the welfare of a disabled child they should be acted upon in the same way as with any other child. Further specific guidance can be found in Safeguarding Disabled Children – Practice Guidance (2009).

Where a disabled child has communication impairments or learning disabilities, special attention should be paid to communication needs, and to ascertain the child's perception of events, and his or her wishes and feelings. Children's Services and the Police should be aware of non-verbal communication systems, when they might be useful and how to access them and should know how to contact suitable interpreters or facilitators. Agencies should not make assumptions about the inability of a disabled child to give credible evidence, or to withstand the court process. Each child should be assessed carefully and helped and supported to participate in the criminal justice process when this is in the child's best interest and the interests of justice.

In criminal proceedings under the Youth Justice and Criminal Evidence Act 1999 witnesses aged under 18 may be eligible for special measures assistance when giving evidence in court. There is a presumption that child witnesses should give their evidence by video recorded statement (if taken) and live link, which allows a witness to give evidence during a trial from outside the courtroom through a televised link to the courtroom. The other special measures available to vulnerable witnesses include clearing the public gallery in sexual offence cases and those involving intimidation, screens to shield the witness from seeing the defendant, and assistance with communication through an intermediary or communication aid. Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses and guidance on using special measures (2011) gives detailed guidance on planning and conducting interviews with children and vulnerable adults. This includes guidance on interviewing vulnerable and intimidated witnesses also disabled children and those that are very young or have mental health needs.

#### **24. Investigating complex (organised or multiple) abuse**

Complex (organised or multiple) abuse may be defined as abuse involving one or more abusers and a number of children. The abusers concerned may be acting in conjunction to abuse children, or acting in isolation, or may be in an institutional organisation or position of authority to recruit children for abuse.

Complex abuse occurs both as part of a network of abuse across a family or community, and within institutions such as residential homes or schools. Such abuse is profoundly traumatic for the children who become involved. Its investigation is time consuming and demanding work requiring specialist skills from both the Police and Children's Services staff. Some investigations become extremely complex because of the number of places and people involved, and the timescale over which abuse is alleged to have occurred. The complexity is heightened where, as in historical cases, the alleged victims are no longer living in the setting where the incidents occurred or where the alleged perpetrators are also no longer linked to the setting or employment role.

Each investigation of organised or multiple abuse will be different, according to the characteristics of each situation and the scale and complexity of the investigation. Although there has been much reporting in recent years about complex abuse in residential settings, complex abuse can occur in day care, in families and in other provisions such as youth services, sports clubs and voluntary groups. Cases of children being abused via the use of the internet and other technology is also a new form of abuse which agencies have to address. For further information see Major Investigation and Public Protection - Investigating Child Abuse and Safeguarding Children, Authorised Professional Practice (College of Policing).



## 25. Suspension

The possible risk of harm to children posed by an accused person needs to be effectively evaluated and managed in respect of the child(ren) involved in the allegations and any other children whom the individual accused person has contact in their home, work or community life. In some rare cases that will require the manager to consider suspending the accused until the case is resolved. Suspension should not be an automatic response when an allegation is reported: all options to avoid suspension should be considered prior to taking that step. Any concerns about the welfare of other children in the community or the family of the accused should be reported to Children's Services or the police and the LADO should be informed. But suspension is highly unlikely to be justified on the basis of such concerns alone.

Suspension is a precautionary act that does not indicate or allude to guilt. Suspension should be considered in any case where there is:-

- cause to suspect a child or other children is/are at risk of harm or
- the case is so serious that it might be grounds for dismissal.

People must not be suspended automatically or without careful thought. Employers must consider carefully whether the circumstances warrant suspension from contact with children in their workplace or until the allegation is resolved and should seek advice from their HR adviser and the LADO.

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.

The employer should also consider whether the result that would be achieved by immediate suspension could be obtained by alternative arrangements. In many cases an investigation can be resolved quickly and without the need for suspension. If the LADO, police and Children's Services have no objections to the member of staff continuing to work during the investigation, the employer should be as inventive as possible to avoid suspension.

Based on **assessment of risk**, the following alternatives should be considered by the employer before suspending a member of staff:

- redeployment within the organisation so that the individual does not have direct contact with the child or children concerned
- redeploying to alternative work in the organisation so the individual does not have unsupervised access to children
- moving the child or children to areas where they will not come into contact with the member of staff, making it clear that this is not a punishment and parents have been consulted or
- temporarily redeploying the member of staff to another role in a different location should this be possible for the organisation.

If immediate suspension is considered necessary, the rationale and justification for such a course of action should be agreed and recorded by both the employer and the LADO. This should also include what alternatives to suspension have been considered and why they were rejected.

Where it has been deemed appropriate to suspend the person, written confirmation should be dispatched within **one working day**, giving as much detail as appropriate for the reasons for the suspension. It is not acceptable for an employer to leave a person who has been suspended without any support. The person should be informed at the point of their suspension who their named contact

is within the organisation and provided with their contact details.

Children's Services or the police cannot require the employer to suspend a member of staff or a volunteer, although they should give appropriate weight to their advice. The power to suspend is vested in the employer. However, where a strategy discussion or Allegation Management Meeting concludes that there should be enquiries by the Children's Services and/or an investigation by the police, the LADO should canvass police and Children's Services for views about whether the accused member of staff needs to be suspended from contact with children in order to inform the employer's consideration of suspension. Police involvement does not make it mandatory to suspend a member of staff; this decision should be taken on a case-by-case basis having undertaken a **risk assessment**.

## 26. Resignations and 'Settlement Agreements'

If the accused person resigns, or ceases to provide their services, this should not prevent an allegation being followed up in accordance with this guidance. **A referral to the Disclosure and Barring Service (DBS) must be made, if the criteria are met.** For further information see the section **Referral to the Disclosure and Barring Service**.

If the accused person resigns or their services cease to be used and the criteria are met, it will not be appropriate to reach a settlement/compromise agreement. A settlement/compromise agreement, which prevents the employer from making a DBS referral when the criteria are met, would likely result in a criminal offence being committed as the employer would not be complying with its legal duty to make the referral.

It is important that every effort is made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children, including any in which the person concerned refuses to cooperate with the process. Wherever possible, the accused should be given a full opportunity to answer the allegation and make representations about it. But the process of recording the allegation and any supporting evidence, and reaching a judgement about whether it can be substantiated on the basis of all the information available, should continue even if that cannot be done or the accused does not cooperate. It may be difficult to reach a conclusion in those circumstances, and it may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete, but it is important to reach and record a conclusion wherever possible.

'Settlement 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. Such an agreement will not prevent a thorough police investigation where that is appropriate.

## 27. Information Sharing

Disclosure of information to safeguard children is supported by the Children Act 1989, Crime and Disorder Act 1998 and Working Together 2018. There are clauses in the Data Protection Act and Human Rights Act, which allow for information to be shared to safeguard and promote the welfare of children and young people. Disclosure of information must be **necessary, proportionate, relevant, accurate, timely and secure**.

In a strategy discussion or the Allegation Management Meeting (AMM), the agencies involved should share all relevant information they have about the person who is the subject of the allegation, and about the alleged victim.

Where the police are involved, wherever possible the employer should ask the police to obtain

consent from the individuals involved to share their statements and evidence for use in the employer disciplinary process. This should be done as their investigation proceeds and will enable the police to share relevant information without delay at the conclusion of their investigation or any court case.

Children's Services should adopt a similar procedure when making enquiries to determine whether the child or children named in the allegation are in need of protection or services, so that any information obtained in the course of those enquiries which is relevant to a disciplinary case can be passed to the employer without delay.

### 28. Oversight and Monitoring Progress

The LADO has overall responsibility for oversight of the procedures for dealing with allegations, for resolving any multi agency issues, and for liaison with North East Lincolnshire Safeguarding Children Partnership on the subject. The LADO will provide advice and guidance to employers Named Senior Officers (or their representative), in addition to liaising with the police and other agencies and monitoring the progress of the cases to ensure that they are dealt with as quickly as possible consistent with a thorough and fair process. Reviews should be conducted at regular intervals depending on the complexity of the case unless there is a lengthy investigation plan or court case and then cases will be reviewed at key agreed points.

Police forces should also identify an officer who will be responsible for

- liaising with the LADO
- taking part in the strategy discussion or Allegation Management Meetings
- subsequently reviewing the progress of those cases in which there is a police investigation and
- sharing information on completion of the investigation or any prosecution

If the strategy discussion or Allegation Management Meeting (AMM) decides that a Police investigation is required, the Police should also set a target date for reviewing the progress of the investigation and consulting the Crown Prosecution Service (CPS) to consider whether to charge the individual, continue to investigate or close the investigation.

### 29. Timescales

It is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation. All allegations should be investigated as a priority to avoid any delay. Target timescales are shown below: 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; 80 per cent of cases should be resolved within one month, 90 per cent within three months, and all but the most exceptional cases should be completed within 12 months.

For those cases where it is clear immediately that the allegation is unsubstantiated or malicious, they should be resolved within one week. Where the initial consideration decides that the allegation does not involve a possible criminal offence it will be for the employer to deal with it, although if there are concerns about child protection, the employer should discuss them with the designated officer(s). In such cases, if the nature of the allegation does not require formal disciplinary action, the employer should institute appropriate action as soon as possible. If a disciplinary hearing is required and can be held without further investigation, the hearing should be held **as soon as possible to avoid delay**.

### 30. Procedures

A flow chart of the procedure is available in appendix 1.

### 31. Initial Considerations and/or LADO Consultation

The procedures for dealing with allegations need to be applied with **common sense and judgement**. Many cases may well either not meet the scope of the procedure or may do so without warranting consideration of either a police investigation or enquiries by Children's Services.

The LADO can provide advice and guidance on whether a case meets the criteria or not. In cases where the criteria are not met, agencies own arrangements should be followed to resolve them without delay.

The initial sharing of information and evaluation may lead to a decision that the allegation meets the criteria yet no further action is to be taken in regard to the individual facing the allegation or concern; in which case this decision and a justification for it should be recorded by both the employer and the LADO, and agreement reached on what information should be put in writing to the individual concerned and by whom. The employer should then consider with the LADO what action should follow both in respect of the individual and those who made the initial allegation.

In cases where it is clear that a police investigation and/or enquiries by Children's Services are not necessary then see the section **Where it is clear that a Police Investigation and/or Enquiries by Children's Services are not necessary** further in these procedures.

Some rare allegations will be so serious they require immediate intervention by the police and/or Children's Services. There may be situations when the employer will want to involve the police immediately, for example if the person is deemed to be an immediate risk to children or there is evidence of a possible criminal offence.

The LADO should be informed of all allegations that come to an employer's attention and appear to meet the criteria so they can consult police and Children's Services as appropriate. This may include making a referral to Children's Services or reporting a possible crime against/related to a child(ren) onto the police or requesting that the designated officer make a referral/report a potential crime if they have not already done so.

The LADO should also be informed of any allegations that are made directly to the Police (which should be communicated via the force's designated officer) or to Children's Services.

The purpose of an initial discussion and/or initial LADO consultation is for the LADO and the referrer to consider the **nature, content and context** of the allegation and agree a course of action. The LADO may ask the referrer to provide or **obtain relevant additional information**, such as previous history, whether the child or their family have made similar allegations previously and the individual's current contact with children. The LADO may request this information to inform their decision making about whether the scope of procedure is met.

Where an allegation is made or needs to be reported outside of usual office hours, the Named Senior Officer or any other staff member will immediately report it to the Emergency Duty Team for Children's Services or the Police and inform the LADO the next working day. This is to ensure immediate safeguards are considered and implemented in line with the presenting risks. This service is an EMERGENCY ONLY service open from 5pm to 8:30am.

01472 326292 opt 2.

Early evaluation is necessary by Named Senior Officers to ensure clarity of the information and whether the allegation fits the scope of the procedure sufficiently and substantially to ensure that all relevant information is available to the LADO thus allowing informed decision making to take place.

If the parents/carers of the child concerned are not already aware of the allegation, the LADO will also

discuss how and by whom they should be informed. In circumstances in which the police or Children's Services may need to be involved, the LADO should consult those colleagues about how best to inform parents. However, in some circumstances an employer may need to advise parents of an incident involving their child straight away, for example if the child has been injured while in the organisation's care and requires medical treatment.

The employer should inform the accused person about the allegation as soon as possible after consulting the LADO. It is extremely important that the employer provides them with as much information as possible at that time.

However, where a strategy discussion is needed, or police or Children's Services need to be involved, that should not be done until those agencies have been consulted and have agreed what information can be disclosed to the person.

Employers must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children at their workplace or whether alternative arrangements can be put in place until the allegation or concern is resolved. All options to avoid suspension should be considered prior to taking that step (see previous section on **Suspension**).

The LADO will be responsible for ensuring that initial considerations and/or LADO consultation of an allegation address any immediate precautionary measures necessary and then consider the following three areas:

- a Police investigation of a possible criminal offence
- enquiries and assessment by Children's Services about whether a child is in need of protection or in need of services and
- consideration by an employer of disciplinary action in respect of the individual.

The LADO will consider whether Ofsted need to be notified of the allegation dependent upon the organisation being regulated by them and there being a requirement for a notification.

The LADO should also consider potential media implications there may be and whether or not there are any immediate welfare needs of the accused person to be addressed.

### **32. Significant Harm**

Where significant harm is indicated Whenever there is reasonable cause to suspect that a child is suffering, or is likely to suffer significant harm, a strategy discussion should be convened in accordance with the statutory guidance Working Together to Safeguard Children 2018.

### **33. Strategy Discussions**

Children's Services will convene and lead a strategy discussion (including the fostering service, if the child is looked after) the police, health and other bodies such as the referring agency. In allegation cases it should involve the LADO and may involve a representative of the employer (unless there are good reasons not to do so) and take account of any information the employer can provide about the circumstances or context of the allegation.

The strategy discussion might take the form of a multi-agency meeting or phone calls and more than one discussion may be necessary. A strategy discussion can take place following a referral or at any other time, including during the assessment process in relation to the child.

If the allegation is about physical contact, the strategy discussion or initial evaluation with the police should take into account that certain professionals in some settings and organisations such as

residential care workers, teachers and other school and college staff are entitled to use **reasonable force to control or restrain children** in certain circumstances, including dealing with disruptive behaviour. This would be in line with that organisation behaviour management policy.

If the LADO and or the employer are not part of a strategy discussion the LADO should be informed of the outcome of it by Children's Services and liaise with the employer to consider and agree the employer actions. There will be close liaison between Children's Services and the LADO throughout the management of the case until a conclusion is reached.

The purpose of the strategy discussion is to determine the child's welfare and plan rapid future action if there is reasonable cause to suspect the child is suffering, or is likely to suffer, significant harm.

The strategy discussion should include the local authority social worker and their manager, health professionals and a police representative as a minimum and in allegation cases, where possible the LADO and employer.

Other relevant professionals will depend on the nature of the individual case but may include:

- the professional or agency which made the referral
- the child's nursery or school and
- any health services the child or family members are receiving.

All attendees should be sufficiently senior to make decisions on behalf of their agencies.

The discussion should be used to:

- share available information
- agree the conduct and timing of any criminal investigation and
- decide whether enquiries under section 47 of the Children Act 1989 should be undertaken.

Where there are grounds to initiate an enquiry under section 47 of the Children Act 1989, decisions should be made as to:

- what further information is needed if an assessment is already underway and how it will be obtained and recorded
- what immediate and short-term action is required to support the child, and who will do what by when and
- whether legal action is required.

The timescale for the assessment to reach a decision on next steps should be based upon the needs of the individual child, consistent with the local protocol and certainly no longer than 45 working days from the point of referral into local authority children's social care.

The principles and parameters for the assessment of children in need in chapter 1 of Working Together 2018 should be followed for assessments undertaken under section 47 of the Children Act 1989.

Social Workers and their managers should make sure that the strategy discussion:

- considers the child's welfare and safety, and identifies the level of risk faced by the child
- decides what information should be shared with the child and family (on the basis that information is not shared if this may jeopardise a police investigation or place the child at risk of significant harm)
- agrees what further action is required, and who will do what by when, where an Emergency Protection Order is in place or the child is the subject of police powers of protection
- records agreed decisions in accordance with local recording procedures and
- follow up actions to make sure what was agreed gets done.

The police should:

- discuss the basis for any criminal investigation and any relevant processes that other agencies might need to know about, including the timing and methods of evidence gathering and
- lead the criminal investigation (local authority children's social care have the lead for the section 47 enquires and assessment of the child's welfare) where joint enquiries take place.

#### **34. Where the threshold of Significant Harm is not reached but a Police investigation might be needed**

In cases where a strategy discussion is not considered appropriate because the threshold of significant harm is not reached, but a police investigation might be needed, the LADO should nevertheless conduct a similar consultation discussion with the police, the employer, and any other agencies involved with the child to evaluate the allegation and decide how it should be dealt with. The police must be consulted about any case in which a criminal offence may have been committed against or related to a child.

The consultation discussion may not need to be a face-to-face meeting yet it should:

- share available information about the allegation, the child, and the person against whom the allegation has been made
- consider whether police enquiries or a police investigation is needed and, if so, agree the timing and conduct of that
- in cases where a police investigation is necessary the consultation discussion should also consider whether there are matters which can be taken forward in a disciplinary process in parallel with the criminal process, or whether any disciplinary action will need to wait for completion of the police investigation, any prosecution and subsequent outcome from court.

#### **35. Where it is clear that a Police Investigation and/or enquiries by Children's Services are not necessary**

If the allegation is such that it is clear that a police investigation and/or enquiries by Children's Services are not necessary, or the strategy discussion or consultation discussion decides that is the case, the LADO should discuss next steps with the employer. Suspension should not be the default position: an individual should be suspended only if there is no reasonable alternative. The nature and circumstances of the allegation and the evidence and information available will determine which of the range of possible options is most appropriate. In those circumstances the options open to the employer will range from taking no further action to dismissal or a decision not to use the person's services in future.

In some cases, further enquiries will be needed to enable a decision about how to proceed. If so, the LADO should discuss with the person's employer how and by whom the investigation will be undertaken.

However, in other circumstances, such as lack of appropriate resource within the organisation, or the nature or complexity of the allegation, the allegation will require an independent investigator. The organisation may need to commission an independent investigation where that is appropriate.

#### **36. Action following Initial Consideration and LADO Consultation**

##### **37. Action Following a Decision that the Allegation does not involve a Possible Criminal Offence**

Where the initial consultation with the LADO decides that the allegation does not involve a possible

criminal offence it will be dealt with by the employer. In such cases, if the nature of the allegation does not require formal disciplinary action, appropriate action should be taken as soon as possible. If a disciplinary hearing is required and can be held without further investigation, the hearing should be held as soon as possible to avoid delay.

Where further investigation is required to inform consideration of disciplinary action the employer should discuss who will undertake that with the LADO. In some settings and circumstances, it may be appropriate for the disciplinary investigation to be conducted by a person who is independent of the employer or the person's line management to ensure objectivity. In any case the investigating officer should aim to provide a report to the employer as soon as possible to avoid delay.

On receipt of the report of the disciplinary investigation, the employer should decide whether a disciplinary hearing is needed, and if a hearing is needed it should be held in line with the organisations disciplinary procedures to avoid delay.

In any case in which Children's Services has undertaken enquiries to determine whether the child or children are in need of protection, the employer should take account of any relevant information obtained in the course of those enquiries when considering disciplinary action.

The LADO should continue to liaise with the employer to monitor progress of the case and provide advice/support when required.

### **38. Action following a Criminal Investigation or Prosecution**

The police should inform the employer and LADO immediately when a criminal investigation and any subsequent trial is complete, or if it is decided to close an investigation without charge, or not to continue to prosecute the case after the person has been charged. In those circumstances, the LADO should discuss with the employer whether any further action, including disciplinary action, is appropriate and, if so, how to proceed. The information provided by the police and/or Children's Services should inform that decision. The options will depend on the circumstances of the case and the consideration will need to take into account the result of the police investigation or the trial, as well as the different standard of proof required in disciplinary process (balance of probability) and criminal proceedings (beyond reasonable doubt).

### **39. Definitions of the Outcomes of Allegations**

The following definitions should be used when determining the outcome of allegation investigations:

- **Substantiated:** there is sufficient identifiable evidence to prove the allegation
- **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive
- **False:** there is sufficient evidence to disprove the allegation
- **Unsubstantiated:** there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

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.



#### 40. On Conclusion of an Allegation

If the allegation is substantiated and the person is dismissed or the employer ceases to use the person's services, or the person resigns or otherwise ceases to provide their services, the LADO should discuss with the employer and their HR advisor whether the employer will decide to make a referral to the DBS for consideration of whether inclusion on the barred lists is required.

Also, if the person is subject to registration or regulation by a professional body or regulator, for example by the Health and Care Professions Council, Teaching Regulation Agency, General Medical Council, Social Work England, Ofsted etc. the HR advisor should advise the employer on whether a referral to that body is appropriate.

**There is a legal requirement for employers to make a referral to the DBS where they think that an individual has engaged in conduct that harmed (or is likely to harm) a child; or if a person otherwise poses a risk of harm to a child. See Referral to the Disclosure and Barring Service section.**

Where it is decided on the conclusion of the case that a person who has been suspended can return to work, the employer should consider how best to facilitate that. Most people will benefit from some help and support to return to work after a very stressful experience. Depending on the individual's circumstances, a phased return and/or the provision of a mentor to provide assistance and support in the short term may be appropriate. The employer should also consider how the person's contact with the child or children who was subject of the allegation can best be managed if they are still in the workplace.

#### 41. In respect of Malicious or Unsubstantiated Allegations

If an allegation is determined to be unsubstantiated or malicious, the LADO should consider whether a referral is necessary to Children's Services if this has not already been completed to determine whether the child concerned is in need of services, or may have been abused by someone else. If an allegation is shown to be deliberately invented or malicious, the organisation should consider whether any disciplinary action is appropriate against the person who made it or whether the police should be asked to consider if action might be appropriate against the person responsible.

#### 42. Record Keeping

The person to whom the allegation is reported should make a written record of the information.

The LADO will keep a clear and comprehensive summary of any allegations made, details of how the allegation was followed up and the conclusion of the case. Details of allegations that are found to have been malicious should be removed from personnel records. However, for all other allegations, it is important that 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, is kept on the confidential personnel file of the accused.

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 reinvestigation 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 or for a period of 10 years from the date of the allegation if that is longer.

Guidance from the Independent Investigation into Child Sexual Abuse (IICSA) advises all organisations

to retain indefinitely any and all documents, notes, emails and all other information - however held – which contains or may contain content pertaining directly or indirectly to the sexual abuse of children or to child protection care. Children relates to any person under the age of 18. This remains in force and records retained by the LADO will be subject to organisational review in line with North East Lincolnshire corporate retention schedule (LADO record retention guidance) see Appendix 2.

The Information Commissioner has published guidance on employment records in its Employment Practices Code and supplementary guidance, which provides some practical advice on employment retention.

#### **43. Employer 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.

#### **44. Referral to the Disclosure and Barring Service**

If the allegation is substantiated and on conclusion of the case the employer dismisses the person or ceases to use the person's services, or the person ceases to provide their services including through resignation or retirement and the employer would have dismissed them, the employer should consult the LADO about whether a referral to the DBS and/or professional or regulatory body is required.

Employers have a legal duty to refer to the DBS anyone who has harmed, or poses a risk of harm, to a child or vulnerable adult; where the harm test is satisfied in respect of that individual; where the individual has received a caution or conviction for a relevant offence, or if there is reason to believe that the individual has committed a listed relevant offence; and that the individual has been removed from working (paid or unpaid) in regulated activity, or would have been removed had they not left.

The list of offences is set out in the Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria and Miscellaneous Provisions) Regulations 2009 (SI 2009 No. 37) (amended).

The DBS will consider whether to bar the person. Referrals should be made as soon as possible after the resignation or removal of the individual. Guidance on referrals can be found at DBS barring referral form and guidance. For further information see the Disclosure and Barring Service website.

#### **45. North East Lincolnshire Safeguarding Children Partnership Monitoring and LADO Reporting**

#### **46. Learning Lessons**

At the conclusion of a case in which an allegation is substantiated, the LADO should review the circumstances of the case with the employer to determine whether there are any improvements to be made to the organisation's procedures or practice to help prevent similar events in the future. This could include any issues arising from any decision to suspend a member of staff, the duration of the suspension and whether or not suspension was justified. Additionally, consideration of actions taken by Police or Children services, any time delays in relation to decision making, and time taken to complete could be considered.

#### **47. References**

- Working Together to Safeguard Children, Department for Education (2018)
- Keeping Children Safe in Education: Statutory Guidance for Schools and Colleges, Department for Education (September 2021)
- Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and

witnesses, and guidance on using special measures vulnerable and intimidated witnesses including children, Ministry of Justice (2011)

#### **48. Subject Access requests (SARS)**

A person has the right under the Data Protection Act to make a data subject access request for details and copies of the information and records which relate to them, including records of the LADO meetings. Certain information held may be exempt from disclosure, such as but not limited to third party personal data and police investigations, and this will be redacted from the information as appropriate prior to disclosure.

