

## Introduction

All allegations made against professionals or volunteers who work with children should be taken seriously. Some allegations clearly need to be referred and allocated for an immediate police investigation as they involve an incident of harm to a child; many are less straightforward and will require a level of questioning and interrogation to establish whether the criteria have been met for a full referral.

The criteria for a referral under the Rotherham Safeguarding Children's Board Procedures of an Allegation against a Professional are:

*This procedure should be applied when there is an allegation 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 that they may pose a risk of harm to children;*
- *Behave in way outside of work or employment which may cause risk of harm to those children with who they work or are in contact with.*

*Here are some broad examples of situations which raise safeguarding concerns in which LADO procedure would be invoked:*

- *Contravened or has continued to contravene any safe practice guidance given by his/her organisation or regulatory body;*
- *Exploited or abused a position of power;*
- *Failed to understand or recognise the need for clear personal and professional boundaries in his/her work;*
- *Behaved in a way in his/her personal life which could put children at risk of harm;*
- *Become the subject of criminal proceedings relating to a child or adult which may indicate risk to children, e.g. Assault, domestic violence, sexual offences against adults;*
- *Become subject to Section 47 Enquiries under child protection procedures.*

*There may be up to 3 strands in considering a concern or an allegation:*

- *A police investigation of a criminal offence;*
- *Enquiries and assessment of by Children and Young People's Social Care Services about whether a child or young person is in need of protection or is in need of services;*

- *Consideration by an employer of disciplinary or other action in respect of the individual.*

The definitions are broad and can allow for a wide variety of interpretation. Understanding and appreciating how local thresholds are applied will help professionals decide what to do and will inform the action that they take. This is true both in referrals about children and in referrals about behaviour of concern by an adult who works with children.

### **Background**

In the mid to late 2000's, following the introduction and development of the statutory role of the LADO, there was discussion and consultation about the threshold determining the appropriate level of intervention to behaviours of concern reported within the children's workforce. The threshold for referral had previously included 'behaviour that would indicate unsuitability to work with children'. However this was amended in Working Together 2013, to 'behaviour that would indicate ..... a risk of harm if the person works closely or regularly with children'.

An understanding of the change in threshold is important because of the statutory process is there to protect children from adults who pose a risk of harm, rather than to unnecessarily criminalise workers who may have made a professional misjudgement. Sometimes the 'allegations' can be downgraded to complaints and can be treated under the organisation's disciplinary proceedings once more is known about the incident.

Managers of agencies and settings – nursery managers, head teachers, designated child protection leads, volunteer managers, human resources managers, etc – must have the confidence to understand the difference between a cause for concern, a complaint, a conduct issue, or an allegation. Minor matters that do not appear in the first instance to meet the threshold for referral to the LADO can upon further investigation be discovered to be much more serious than first thought. The importance of an open mind and professional curiosity cannot be underestimated.

Research has shown that the first stage in building a safe workforce is a robust safer recruitment practice and then, clearly understood safeguarding policies and procedures which are implemented and supported throughout the organisation. Within this framework staff should understand and accept that if allegations are made they will be thoroughly investigated however they will also need to have confidence that any investigation will be balanced and they will be appropriately informed of the outcome.

Sometimes parents are dissatisfied with how the agency has dealt with their concern and will complain to police directly. There should be a clear route of access for police, to any previous information the LADO has to assist in decision making.

Risk aversion arises from a lack of confidence on the part of the manager, the fear of reprisal, or a lack of confidence with whether partner professions will support decisions. A robust understanding of thresholds and the workflow for consultations

## LADO Referral and Threshold Protocol

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and referrals should build the confidence of managers in partner agencies in managing complaints and allegations about the children's workforce.

On occasion referrals will be made that are believed to be malicious. Such a referral could result in the creation of a record on the police/DRB check of a professional or volunteer which would impact upon their future employment prospects. There have been a number of judicial reviews and challenges regarding information on DBS checks that have been the result of allegations investigations. To develop a system where the threshold for referral, the decisions made, and the pathway of the investigation process are understandable by all should reduce the likelihood of such challenge.

## LADO REFERRALS INDICATOR MATRIX

## Indicators Matrix LADO Tiers 1-4

Tier 1: Incident that does not need LADO input but may be a conduct issue	Tier 2: Incident which might require logging with LADO but will be 'No Further Action'	Tier 3: Incident which requires consideration of referral to other agency such as police or Ofsted	Tier 4: Incident which requires immediate suspension/police referral/arrest/immediate action to protect child
<p>Complaint made by parent or carer or comment made by child that does not seem to have any corroborating evidence. There is no injury seen, or witness accounts do not corroborate the allegation, the manager confident this does not meet the threshold for a referral but is intending to investigate further.</p> <p>In such cases the relevant manager may wish to have a consultation discussion with the LADO, and both can make a record of the discussion and agree it will be dealt with internally, in case further information comes to light to question why no formal LADO referral was made.</p>	<p>Member of staff alleged to have acted or reacted in a way considered inappropriate but not harmful; parental or child complaint about such an incident, to outside agency e.g. Ofsted, who have referred to LADO for further enquiries; allegation made but manager believes at this point they can deal with this internally and are checking with LADO for information only.</p> <p>This category also includes volunteers and professionals where there are domestic issues which require them to inform their line manager (for example a section 47 investigation at home) but the employer/manager is clear there are no risks presented by this person in their place of work.</p> <p>These are incidents where an escalation to a police referral would be considered a disproportionate response.</p> <p>These cases are likely to meet the threshold for a confidential record to be kept by the LADO with the knowledge of the person concerned.</p>	<p>Allegation made which meets the threshold for referral to LADO and appears in the first instance to meet the threshold for referral to police.</p> <p>Such cases may not involve serious injury to a child but appear to be a breach of the position of trust the professional or volunteer was in.</p> <p>A significant proportion of these types of referral have no clear criminal outcome but for the purposes of transparency the allegations process must be followed.</p> <p>Some of these referrals do not appear to have a criminal element but the behaviour is such that a regulatory body such as Ofsted, or the National Council for Teaching and Leadership, should be informed.</p> <p>It is essential in these cases that there is a clear outcome and this is communicated to the professional/volunteer. These referrals can result in a note on future DBS checks and could have an impact on the professional/volunteer's future career.</p>	<p>Allegation made with credible witness who supports this, where a child has been injured or harmed.</p> <p>Behaviour by the professional or volunteer which is deemed to be extremely concerning towards the children they are caring for and requires immediate suspension.</p> <p>Allegation by a member of the professional/volunteer's family which is so serious it requires immediate consideration by employer.</p>

**Physical Abuse**

<p>Examples could be: child objecting to a sanction imposed in school, describing an event to a parent who then comes in to complain about how their child has been treated.</p> <p>Young person in children's home involved in a confrontation and making accusations where there were several witnesses and there is a clear incident report that refutes the child's account.</p> <p>An allegation that is made second or third hand and facts are not clear, or the professional alleged to have done this was not there at the time; or there is confusion about the account.</p>	<p>Examples could be: child accusing teacher of pushing them, when it appears they were being guided away from a situation (covered by 'Use of Reasonable Force' DfE 2013)</p> <p>Nursery worker seen by parent to be pulling a child away from a situation, parent considers this is done roughly but professional claims it was to remove child from a confrontation where they may have harmed another child.</p> <p>Professional or volunteer accused of domestic violence assault on own children but there have never been any concerns at work about him/her.</p>	<p>Examples could be a credible disclosure by a child or young person that uses the word 'hit' or 'hurt'; yet there is no injury seen and no corroborating evidence of child's account.</p> <p>Restraint that has caused an injury to the person being restrained.</p> <p>An incident witnessed where there is a physical exchange between staff and child or young person. It is unclear whether self-defence or retaliation was involved. The matter needs full investigation.</p>	<p>Child has clearly been injured or could have been injured as a direct result of the actions of a professional or volunteer.</p> <p>Incident within the professional/volunteer's home life that is of high risk and high level of concern.</p>
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**Sexual Abuse**

<p>A school girl telling a friend, who tells the teacher, that another teacher 'makes her feel funny when he looks at her' but no other concerns or complaints expressed.</p>	<p>A professional or volunteer makes an inappropriate remark that appears on the surface to be naïve rather than potentially grooming, or acts in a way that could be deemed unprofessional.</p>	<p>A very young child still requiring personal care/nappy changing indicates that a nursery worker touched him/her in the genital area.</p> <p>A professional or volunteer has been sending inappropriate but not necessarily sexual texts to young people he/she works with.</p>	<p>Professional or volunteer arranging to meet young person outside the work environment and asking them not to tell anyone; or making inappropriate contact through social media with sexual overtones.</p>
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**Emotional Abuse/Neglect**

A child with a history of challenging behaviour, alleging s/he feels bullied by a well-respected member of staff.

Teacher under stress who is heard to shout inappropriately at the children one day towards the end of term.

A foster carer where there have been several complaints about poor practice and standards of care; children in their care who are not clean or appropriately dressed, or seen to be treated in a way that causes concern to observing professionals.

Making racist or derogatory remarks to a child or young person in the presence of witnesses.

Concerns that family members of the professional or volunteer may be involved in criminal activity.

Childminder witnessed to ignore children crying and speak rudely to them, but further context not known.

**Suggested Actions**

Managers to investigate further to satisfy themselves this matter does not meet the threshold for a referral outside the organisation, and identify any appropriate actions.

Investigate further with a clear view that this could be escalated to a full LADO referral if more information comes to light.

Full referral to LADO and consideration of what actions are required under the procedures.

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If no further information is discovered, offer words of advice/training and make a record of this on the professional or volunteer's personnel file.

This may or may not include referral to police.

This will include referral to police.

# LADO Referral and Threshold Protocol

## LADO Referral Flowchart

