Phoenix
FEDERATION

Procedures for dealing with Allegations Against Staff or Volunteers who Work with Children

Chair of Governors: _____

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1. Introduction

1.1

All organisations which have employees or volunteers working with children (people in positions of trust) should have clear and accessible policies and procedures, consistent with these London Safeguarding Children Procedures, which explain what should happen when allegations are made about the behaviour of a member of staff or volunteer. These should include the requirement to appoint a designated safeguarding lead to whom these allegations are reported. It is the responsibility of this designated safeguarding lead to report allegations to, and liaise with, the local authority designated officer (LADO) who has the responsibility to manage and have oversight of allegations against people who work with children Working Together to Safeguard Children.

1.2

Safeguarding partnerships should have arrangements in place for monitoring and evaluating the effectiveness of the arrangements to manage allegations across the partnership.

1.3

All references in this document to 'members of staff' and 'employment' should be interpreted as meaning all paid or unpaid staff (whether directly employed or through an agency / supply staff) and volunteers, including foster carers and prospective adopters. All references to 'employers' should be taken to include any agency or organisation with responsibility for paid or unpaid staff and volunteers, including foster carers and prospective adopters. This chapter also applies to any person, who manages or facilitates access to an establishment where children are present.

1.4

The acronym LADO (local authority designated officer) is used throughout these procedures to refer to the specific role of the designated officer employed by the local authority to manage and have oversight of allegations across the children's workforce. This term is used in order to distinguish between safeguarding leads in health and education who can also be referred to as 'designated' leads.

2. Allegations dealt with by these Procedures

Definition

2.1

These procedures should be applied when there is an allegation that any person who works with children, in connection with their employment, voluntary activity or personal life, 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;

Behaves in a manner that discriminates against a child on the basis of one or more of their protected characteristics [1].
[1] as defined by the Equalities Act 2010

2.2

Allegations can be made in relation to physical chastisement and restraint but can also relate to inappropriate relationships between members of staff and children or young people, for example:

Having a sexual relationship with a child under 18 if in a position of trust in respect of that child, even if consensual. The Police, Crime, Sentencing and Courts Act 2022 has extended the definition within the Sexual Offences Act 2003 section 22A to include anyone who coaches, teaches, trains, supervises or instructs a child under 18, on a regular basis, in a sport or a religion;
'Grooming', i.e. meeting a child under 16 with intent to commit a relevant offence (see s15 Sexual Offences Act 2003);
Other 'grooming' behaviour giving rise to concerns of a broader child protection nature e.g. inappropriate text / e-mail messages or images, gifts, socialising etc;
Possession of indecent photographs / pseudo-photographs of children.
2.3

In addition, these procedures should be applied when there is an allegation that any person who works with children:

Has behaved in a way in their personal life that raises safeguarding concerns. These concerns do not have to directly relate to a child but could, for example, include arrest for possession of a weapon;
As a parent or carer, has become subject to child protection procedures;
Is closely associated with someone in their personal lives (e.g. partner, member of the family or other household member) who may present a risk of harm to child/ren for whom the member of staff is responsible in their employment/volunteering.
2.4

Finally, these procedures should be followed where a person's employment is covered by the Childcare Act 2006 (See definition in the statutory guidance [2]) and:

... is living in the same household where another person who is disqualified lives or is employed - a person is disqualified if they are 'found to have committed' an offence which is included in the 2009 Regulations (a 'relevant offence'). See Statutory guidance 'Disqualification under the Childcare Act 2006'.
This statutory guidance covers school settings where a person works with children under the age of 8 as well as early years' childcare.

[2] See 'Staff covered and relevant settings', Pages 6-8 in Statutory guidance, 'Disqualification under the Childcare Act 2006' - Staff are covered by this legislation if they are employed and/or provide early years childcare (this covers the age range from birth until 1 September following a child's fifth birthday i.e. up to and including reception age) or later years childcare (this covers children above reception age but who have not attained the age of 8) in nursery, primary or secondary school settings, or if they are directly concerned with the management of such childcare

2.5

It is also important to note that, whilst not specifically covered by statutory guidance, the risks associated with the wider family and close associates of the member of staff may also need to be considered even if their work with children does not fall within the remit of the statutory guidance.

2.6

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

2.7 The procedures for dealing with allegations need to be applied with common sense and judgement. Many cases may well either not meet the criteria set out above or may do so without warranting consideration of either a police investigation or enquiries by local authority children's social care services. A decision about whether a case satisfies the criteria or warrants consideration of a police investigation or local authority enquiries should only be taken in consultation with the LADO. In these cases, employers should follow their safeguarding and other relevant procedures to resolve cases without delay.

2.8

Concerns may also be raised where a person in a position of trust behaves in a manner that would satisfy the criteria set out in 2.1 / 2.2 / 2.3 above but the subject of their behaviour is over the age of 18 (e.g. a teacher engaged in a sexual relationship with an 18 year old student in year 13). If there are grounds to believe that the behaviours commenced prior to the subject becoming 18 and / or that the adult had "groomed" the subject prior to their 18th birthday, then these procedures should be followed. If there are no grounds to believe that these behaviours commenced prior to the subject becoming 18, then consideration should be given as to whether the person in a position of trust has breached their agency's code of conduct, behaviour policies, safeguarding policies or personal relationships policy. The London Safeguarding Children Partnership encourages partner agencies to ensure that they adopt a code of conduct and / or other polices which clearly includes references to behaviours / relationships between people in a position of trust and those for whom they are responsible that are over the age of 18 [3].

[3] See, for example, Safer Recruitment Consortium, Guidance for safer working practice for those working with children and young people in education settings and note that "child" refers to any pupil in an education establishment, regardless of age and UCL Personal Relationships Policy.

The difference between an allegation and a concern

2.9

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). Issues that do not meet this threshold may

constitute conduct or disciplinary issues and should be addressed by employers using the appropriate organisational procedures.

2.10

If it is difficult to determine the level of risk associated with an incident the following should be considered:

Was the incident a disproportionate or inappropriate response in the context of a challenging situation?
Where the incident involved an inappropriate response to challenging behaviour, had the member of staff had training in managing this?
Does the member of staff understand that their behaviour was inappropriate and express a wish to behave differently in the future? For example, are they willing to undergo training?
Does the child or family want to report the incident to the police or would they prefer the matter to be dealt with by the employer?
Have similar allegations been made against the employee – is there a pattern developing?
2.11

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.

2.12 Whether an incident constitutes an allegation and hence needs to be dealt with through these procedures, should always be discussed by the LADO and the employer's safeguarding lead. If it falls short of this threshold there may still be a role for the LADO to provide advice and support to the employer. Where the matter constitutes a conduct or performance issue, the employer should follow the appropriate disciplinary procedures and let the LADO know of the outcome.
2.13

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

Organised abuse
2.14

Investigators should be alert to signs of organised or widespread abuse and/or the involvement of other perpetrators or institutions. They should consider whether the matter should be dealt with in accordance with complex abuse procedures which, if applicable, will take priority. See Organised and Complex Abuse Procedure.

Non-recent abuse

2.15

Allegations of non-recent abuse should be responded to and reported in the same way as contemporary allegations. In cases of non-recent abuse, the person against whom the allegation is made may still be working with children and it will be important to investigate whether this is the case.

3. Relevant Statutory Guidance
3.1

Working Together to Safeguard Children: Statutory guidance on inter-agency working to safeguard and promote the welfare of children. Available at: Working Together to Safeguard Children (updated December 2020)

Detailed guidance can be found for schools and all educational establishments in Keeping Children Safe in Education: Statutory Guidance for Schools and Colleges (updated January 2021).

Guidance about the use of physical restraint in schools for governing bodies, headteachers and school staff. Available at: GOV.UK, Use of reasonable force in schools (2013)

Additionally new statutory guidance has been issued 'Disqualification under the Childcare Act 2006' (February 2015) which replaces the supplementary advice that was issued by the Department for Education on 10 October 2014. Available at: GOV.UK, Disqualification under the Childcare Act 2006Disqualification under the Childcare Act 2006 (updated August 2018)

Guidance regarding making a referral to the Disclosure and Barring Service (DBS) website is available at: GOV.UK, Making barring referrals to the DBS (updated November 2017)

Guidance regarding the legal duty to refer and power to refer to the DBS is available at: GOV.UK, DBS barring referral guidance (updated May 2018)

4. Roles and Responsibilities
Roles and responsibilities for all organisations
Working Together to Safeguard Children requires that County level and unitary local authorities 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 coordinated manner.

Local authorities should have a designated officer, or team of officers (either as part of multi-agency arrangements or otherwise), to be involved in the management and oversight of allegations against people that work with children. The designated 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 to employers and voluntary organisations. Local authorities should also ensure that there are appropriate arrangements in place to effectively liaise with the police and other agencies to monitor the progress of cases and ensure that they are dealt with as quickly as possible, consistent with a thorough and fair process.

4.1

Each organisation providing a service to children and families must have its own policy on how it manages child safeguarding concerns so that staff, children and families know how to identify and report abuse and neglect. The policies should be consistent with and refer to these London Safeguarding Children Procedures. Safeguarding training for staff should be provided and refreshed regularly and children and families should be regularly reminded of how they can report concerns.

4.2

Where services for children and families are being commissioned, commissioners should ensure that contracts include these requirements.

4.3

Each organisation should identify a named senior manager with overall responsibility for:

Ensuring that the organisation deals with allegations in accordance with these London Safeguarding Children Procedures;
Resolving any inter-agency issues;
Making statutory notifications to professional bodies and the Disclosure and Barring Service (DBS);
Liaising with the local safeguarding partnership.
4.4

Organisations should also appoint:

A designated safeguarding lead to whom allegations or concerns should be reported. This person should be a senior manager. They should:
Seek advice from the LADO regarding incidents where it is unclear whether it is an allegation or a concern;
Report all allegations of harm to the LADO.
A deputy to whom reports should be made in the absence of the designated safeguarding lead or where that person is the subject of the allegation or concern. In practice the named senior manager and the designated safeguarding lead may be the same person.

Whistleblowing
4.5

All staff should be made aware of the organisation's whistleblowing policy and feel confident to voice concerns about the attitude or actions of colleagues.

4.6

If a member of staff believes that a reported allegation or concern is not being dealt with appropriately by their organisation, they should report the matter to their LADO. See also local safeguarding partnership procedure.

Roles and responsibilities for local authorities – in addition to their role as an employer
4.7

Local authorities should assign a LADO or a team of LADOs, to:

Receive reports about allegations and to be involved in the management and oversight of individual cases;
Provide advice and guidance to employers and voluntary organisations;
Liaise with the police and other agencies;
Monitor the progress of cases to ensure that they are dealt with as quickly as possible, consistent with a thorough and fair process;
Provide advice and guidance to employers in relation to making referrals to the Disclosure and Barring Service (DBS) and regulatory bodies such as Ofsted, the General Medical Council (GMC) etc.
4.8

It is very important that those giving advice have expertise in this area, as any errors in the advice could have serious ramifications, both for those individuals who have had allegations made against them and for those making the allegation.

4.9

It is important to be aware that LADOs do not carry out investigations into allegations – responsibility for the investigation remains with the employer (or whoever is commissioned by the employer to investigate the process) and/or the police. The LADO can provide advice and, where necessary, co-ordinate the process. The LADO is also responsible for ensuring an appropriate outcome is reached. Where it is not straightforward to establish which organisation should lead an investigation, for example, where responsibility may be shared between an employment agency and the organisation where the person was working, the LADO will also provide advice regarding which organisation is best placed to lead the investigation.

Cases which cross borough boundaries
4.10

Cases will often be relevant to more than one local authority. For example, an allegation could be made against an agency worker who works in more than one local authority area and whose agency is based in another local authority area or a foster carer that resides in a different local authority area from that with whom they are registered or where their independent fostering agency is based in relation to a child that is the responsibility of a third local authority. It is important that a lead LADO is identified to ensure that the allegations are appropriately investigated.

Decisions about which LADO should take the lead can be complex but should be based upon where the risk has been identified the following examples provide some guidance:

If the allegation relates to a supply teacher in the school the LADO responsible for the area in which the school is located should take the lead;
• If the allegation relates to a foster carer registered with an independent fostering agency, it should be the LADO responsible for the local authority where the foster carer resides that takes the lead;
If the allegation relates to a local authority foster carer who resides in another local authority area from that with whom they are registered, then it should be the LADO responsible for the local authority with whom they are registered that takes the lead;
In each case, the responsible LADO should ensure that the LADO(s) from the other local authority(s) that may have an interest (e.g. where the teaching agency is based, where the carer is registered / fostering agency based, where the child resides / holds a statutory responsibility) are aware of and invited to contribute to any investigation.

Roles and responsibilities for the police
4.11

The police detective inspector on each child abuse investigation team will:

Have strategic oversight of the local police arrangements for managing allegations against staff and volunteers. This will include, for example, responsibility for informing partners of changes to police practice (such as the changes to bail conditions) and keeping partners aware of the number of cases they are dealing with and any themes which emerge from them;
Liaise with the safeguarding partnership on the issue and, in particular, which section of the police will lead the investigation;
Ensure compliance with these procedures.
4.12

The police should designate a detective sergeant/s to:

Liaise with the LADO and their team;
Take part in meetings / discussions;
Review the progress of cases in which there is a police investigation;
Share information as appropriate, on completion of an investigation or related prosecution.
If a police officer receives an allegation, they should, without delay, report it to the designated detective sergeant on the child abuse investigation team (CAIT). The detective sergeant should then immediately inform the LADO.

5. Responding to an Allegation or Concern – the Role of the Employer
5.1

An allegation or concern raised about a member of staff or volunteer may arise from a number of sources, for example, a report from a child, a concern raised by another adult in the organisation, or a complaint by a parent. It may also arise in the context of the member of staff and their life outside work or at home.

Initial action by person receiving or identifying an allegation or concern
5.2

The person to whom an allegation or concern is first reported should treat the matter seriously and keep an open mind. They should not:

Investigate or ask leading questions;
Make assumptions or offer alternative explanations;
Promise confidentiality.
5.3

They should follow their organisation's procedures, which should include the following:

Making a written record of the information (where possible in the child / adult's own words), including the time, date and place of incident/s, persons present and what was said;
Signing and dating the written record;
Immediately reporting the matter to the designated safeguarding lead, or the deputy in their absence or; where the designated safeguarding lead is the subject of the allegation report to the deputy or other appropriate senior manager.
Some, very serious allegations, should be immediately reported to the police – this will also enable prompt action to be taken to safeguard the child and gather evidence e.g. from mobile phones etc.

Initial action by the designated safeguarding lead (if different)
5.4

When informed of a concern or allegation, the designated safeguarding lead should not investigate the matter but they should continue to gather factual information in regards to the incident and ensure any evidence is preserved. This fact-finding should be a neutral process and should not amount to an investigation of the incident.

They should:

Obtain written details of the concern / allegation, signed and dated by the person receiving it (not the child / adult making the allegation);
Approve and date the written details;
Record any information about times, dates and location of incident/s and names of any potential witnesses;
Record discussions about the child and/or member of staff, any decisions made, and the reasons for those decisions.
Deciding if it is an allegation of harm or a concern
5.5

The decision about whether the issue should be dealt with as an allegation of harm or a concern should be taken in consultation with the LADO, see 2.12 and 2.13 above.

Notifying the LADO within one working day of an allegation
5.6

The designated safeguarding lead must inform their LADO within one working day when an allegation is made and prior to any further investigation taking place. A failure to report an allegation in accordance with procedures is a potential disciplinary matter.

If it is outside of normal working hours and there is an immediate risk to a child, the local authority emergency duty team for children's social care. The LADO should be informed as soon as possible;
An immediate risk assessment should be carried out;
If appropriate the police should also should also be notified within one working day – or immediately if necessary;
It is important to note that information gathering is distinct from investigation. Employers should continue to gather information about the facts of the case, for example, checking if there is any evidence and taking statements from other witnesses.
Suspension – when it should be considered
5.7

Suspension should be considered only in cases where there is cause to suspect a child or children at the place of employment is/are at risk of harm or the case is so serious that it might be grounds for dismissal. The case manager (i.e. the line manager of the subject of the allegation) must consider carefully whether the circumstances warrant suspension from contact with children until the allegation is resolved and may wish to seek advice from their personnel adviser and the LADO(s).

5.8

The case manager 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(s), police and children's social care services have no objections to the member of staff continuing to work during the investigation, the case manager should be as inventive as possible to avoid suspension. Based on assessment of risk, the following alternatives should be considered by the case manager before suspending a member of staff:

Redeployment so that the individual does not have direct contact with the child or children concerned;
Providing an assistant to be present when the individual has contact with children;
Redeploying to alternative work so the individual does not have unsupervised access to children;
Temporarily redeploying the member of staff to another role in a different location.
5.9

These alternatives allow time for an informed decision regarding the suspension. This will, however, depend upon the nature of the allegation. The case manager should consider the potential permanent professional reputational damage to employees that can result from suspension where an allegation is later found to be unsubstantiated or maliciously intended.

5.10

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

5.11

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.

5.12

Children's social care services or the police cannot require the case manager 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 discussion concludes that there should be enquiries by the children's social care services and/or an investigation by the police, the LADO(s) should canvass police and children's social care services for views about whether the accused member of staff needs to be suspended from contact with children in order to inform 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.

5.13

If a suspended person is to return to work, the employer should consider what help and support might be appropriate (e.g. a phased return to work and/or provision of a mentor), and also how best to manage the member of staff's contact with the child concerned, if still in the workplace.

5.14

Police bail

The subject of the allegation will not be arrested unless there is a need for bail conditions. Cases may be dealt with by an interview under caution. The lack of an arrest can impact on the strength of the case to suspend someone so it is very important to have clear information about the police decision making process and why actions were and were not taken.

5.15

Schools and colleges - interim prohibition order

In cases where a school or college is made aware that the Secretary of State has made an interim prohibition order in respect of an individual at the school or college,

it will be necessary to immediately suspend that person from teaching pending the findings of the National College for Teaching and Leadership's (NCTL) investigation.

6. The Role of the LADO
Initial consideration of an allegation by the designated safeguarding lead and the LADO
6.1

Deciding if it is an allegation of harm or a concern

All concerns reported to the LADO should be assessed to decide if the threshold for an allegation has been met. In cases where it is not clear whether the threshold has been met, it might be necessary to have a discussion (by phone or in a meeting) to evaluate whether the threshold is met – sometimes referred to as an evaluation meeting;
It is essential to keep the employer who raised the concern informed whilst the case is being assessed. Organisations raising concerns may want to challenge or discuss decisions made by the LADO and will need to be updated on any action taken;
The employer and the LADO should discuss the incident and agree whether or not it meets the threshold for risk of harm. Consideration should be given to the risk or potential risk to both the child/children directly affected by the issue and any other children who may also be at risk;
Where it is decided that the incident does not meet the threshold of harm/risk of harm and is a concern only, then the employer should take steps to ensure any conduct or behaviour issues are addressed with the member of staff through normal employment practices.
6.2

Considering an allegation

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

A police investigation of a possible criminal offence;
Local authority Children's social care enquiries and/or assessment about whether a child is in need of protection or services;
Consideration by an employer of disciplinary action in relation to possible performance/ conduct issues;
Whether action in regards to the person making the allegation should be considered where the allegation has no foundation and may be malicious.
The LADO and the designated safeguarding lead should consider first whether further details are needed and whether there is evidence or information that establishes that the allegation is false or unfounded.

If the allegation is not demonstrably false and there is cause to suspect that the adult (or in specific circumstances the 16 or 17-year-old) poses a risk of harm, the LADO should convene an Allegations against Staff and Volunteers (ASV) meeting / discussion. This will sometimes have to take place immediately but the speed at which it is convened should be commensurate to the risk.

If the allegation does not meet the threshold for risk of harm, but there are concerns that a child has been harmed or there is no evidence of harm but there is concern about inappropriate behaviour etc. the LADO should inform the employer of this who

will then take responsibility for addressing the issue. The LADO can provide advice and support to the employer where necessary.

The police must be consulted about any case in which a criminal offence may have been committed.

If the threshold for harm is not reached, but a police investigation might be needed, the LADO should immediately discuss the case with the police and, where necessary, convene a meeting, to include the police, employer and other agencies involved with the child.

An 'Allegations against Staff and Volunteers' (ASV) meeting/discussion
6.3

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

6.4

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

6.5

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

6.6

The ASV will be chaired by the LADO. It will normally be attended by the police, a social worker for the child (where there is one], and the employer. The employer is advised to bring a human resources advisor. In situations where the allegation is against a health professional, the designated or named nurse for safeguarding [Clinical Commissioning Group/CCG) should be invited.

6.7

The meeting / discussion should:

Decide whether there should be a s47 enquiry and / or police investigation;
Consider whether any parallel disciplinary process can take place and agree protocols for sharing information;
Consider the current allegation in the context of any previous allegations or concerns;
Where appropriate, take account of any entitlement by staff to use reasonable force to control or restrain children (e.g. Use of reasonable force in schools (July 2013));

Consider whether a complex abuse investigation is applicable (see Organised and Complex Abuse Procedure);
Plan enquiries if needed, allocate tasks and set timescales;
Decide what information can be shared, with whom and when.
6.8

The meeting /discussion should also:

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

6.9

Meetings/discussions in relation to allegations against staff in their personal lives

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

Approaching the member of staff's employer for further information, in order to assess the level of risk of harm; and / or
Inviting the employer to a further meeting / discussion about dealing with the possible risk of harm.
If the member of staff lives in a different authority area to that which covers their workplace, liaison should take place between the relevant agencies in both areas and a joint meeting / discussion convened.

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

The ability and/or willingness of the member of staff to adequately protect the child/ren;
Whether measures need to be put in place to ensure their protection;
Whether the role of the member of staff is compromised.
Timescales for completing investigations of allegations [4]
6.10

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. 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. Target timescales are shown below:

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 LADO;
In such cases, if the nature of the allegation does not require formal disciplinary action, the employer should institute appropriate action within three working days;
If a disciplinary hearing is required and can be held without further investigation, the hearing should be held within 15 working days
It is expected that:

80 per cent of cases should be resolved within one month;
90 per cent should be resolved within three months;
All but the most exceptional cases should be completed within 12 months.
[4] Para 335, Keeping Children Safe in Education (September 2021)

Monitoring progress
6.11

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

6.12

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

6.13

If a police investigation is to be conducted, the police should set a date for reviewing its progress and consulting the Crown Prosecution Service (CPS) about continuing or closing the investigation or charging the individual. Wherever possible, this should

be no later than four weeks after the meeting / discussion. Dates for further reviews should also be agreed, either fortnightly or monthly depending on the complexity of the investigation.

7. Outcomes following an investigation
The following definitions should be used when determining the outcome of allegation investigations:

Substantiated allegations
7.1

There is sufficient evidence to prove the allegation that a child has been harmed or there is a risk of harm.

Malicious
7.2

There is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive. The police should be asked to consider what action may be appropriate in these circumstances.
False allegations
7.3

There is sufficient evidence to disprove the allegation.

There is no evidence to suggest that there was a deliberate intention to deceive.

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

Unsubstantiated allegations
7.4

There is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

Unfounded
7.5

There is no evidence or proper basis which supports the allegation being made.

It might 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.

The Chair of the meeting / discussion should make a record of the agreed outcome and forward this to the employer.

References in cases where the allegation is false, unsubstantiated or malicious

7.6

Cases in which an allegation was proven to be malicious, false, unsubstantiated or unfounded should not be included in employer references. Neither should a history of repeated concerns or allegations which have all been found to be malicious, false, unsubstantiated or unfounded be included in any reference.

Record keeping in relation to the outcome of an investigation
7.7

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, and a copy provided to the person concerned. The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where future DBS checks reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time. The record should be retained at least until the accused has reached normal pension age or for a period of 10 years from the date of the allegation if that is longer. The Information Commissioner has published guidance on employment records in its Employment Practices Code and supplementary guidance, which provides some practical advice on record retention.

8. Substantiated Allegations
Referral to the Disclosure and Barring Service (DBS)
8.1

The Disclosure and Barring Service was established under the Protection of Freedoms Act 2012 which merged the functions previously carried out by the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA). See Chapter 5 Safeguarding vulnerable groups, criminal records etc. Protection of Freedoms Act 2012.

8.2

There is a legal requirement for employers or organisations to make a referral to the DBS where they believe that "a person has caused harm or poses a future risk of harm to vulnerable groups, including children". An employer or volunteer manager is breaking the law if they knowingly employ someone in a regulated activity with a group from which they are barred from working.

8.3

If an allegation is substantiated then the guidance regarding making a referral should be followed - see Disclosure and Barring Service website.

The DBS will refer cases involving teachers to the Teaching Regulation Agency.

Legal duty to refer and power to refer

8.4

Legal Duty - the following groups have legal duty to refer information to the DBS:

"Regulated activity suppliers" - employers and volunteer managers;
"Personnel suppliers" employment agencies, employment business or an educational institution.
See GOV.UK, DBS referral guidance and tools.

8.5

Power - the following groups have the power to refer information to the DBS:

The power to refer may be used when a local authority or regulatory body is acting in a role other than as a regulated activity provider, for example, when undertaking a safeguarding role.

Local authorities;
A Health and Social Care (HSC) trust;
Education and Library Boards;
Keepers of registers e.g. General Medical Council, Nursing and Midwifery Council, Social Work England, Wales and Northern Ireland;
Supervisory authorities e.g. Care Quality Commission, Ofsted. in England, Wales and Northern Ireland
8.6

The DBS will refer cases involving teachers to the Teaching Regulation Agency.

8.7

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

8.8 The DBS have established a Regional Safeguarding Outreach service, which focuses on working collaboratively with safeguarding organisations, and organisations that are recruiting. The aim is to work more closely with organisations to build and develop relationships, and to act as a single point of contact for all DBS-related enquiries within their region. See: The DBS Regional Outreach Service.
Notifying Ofsted
8.9

Child minders and day care

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

8.10

Foster carers, prospective adopters and residential care

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

9. Disciplinary or suitability process and investigations
Notifying Ofsted
9.1

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

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

Or
The employer or the LADO is informed by the police or the Crown Prosecution Service that a criminal investigation and any subsequent trial is complete, or that an investigation is to be closed without charge, or a prosecution discontinued.
9.2

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

Information provided by the police and / or local authority children's social care;
The result of any investigation or trial;
The different standard of proof in disciplinary and criminal proceedings.
9.3

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

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

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

Further investigation
9.4

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

9.5

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

9.6

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

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

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

9.7

Sharing information for disciplinary purposes

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

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

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

Resignations and 'compromise agreements'
9.8

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

The individual refuses to cooperate, having been given a full opportunity to answer the allegation and make representations;
It may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete.
9.9

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

investigation where there is a substantiated outcome. Such an agreement will not prevent a thorough police investigation where that is appropriate.

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

Learning lessons
9.10

The employer and the LADO should review the circumstances of the case to determine whether there are any improvements to be made to the organisation's procedures or practice.

10. General Responsibilities when investigating an Allegation
Support to the child and family involved
10.1

The organisation, together with local authority children's social care and / or police, where they are involved, should consider the impact on the child concerned and provide support as appropriate. Liaison between the agencies should take place in order to ensure that the child's needs are addressed.

10.2

Keeping parents/cares and children informed

The employer must inform the parents of the child/ren involved of the allegation and the process that is being followed unless this will impede the disciplinary or investigative processes. The LADO can advise the employer whether or not the parents should be informed. However, in some circumstances, the parent/s may need to be told straight away (e.g. if a child is injured and requires medical treatment);
The parent/s and the child, if sufficiently mature, should be helped to understand the processes involved and be kept informed about the progress of the case and of the outcome where there is no criminal prosecution. This will include the outcome of any disciplinary process, but not the deliberations of, or the information used in, a hearing.
Responsibilities to employees/volunteers alleged to have caused harm
10.3

Support to the accused member of staff

As soon as possible after an allegation has been received, the accused member of staff should be advised to contact their union or professional association. Human resources should be consulted at the earliest opportunity in order that appropriate support can be provided via the organisation's occupational health or employee welfare arrangements.

10.4

Keeping the accused member of staff informed

Subject to restrictions on the information that can be shared, the employer should, as soon as possible, inform the accused person about the nature of the allegation, how enquiries will be conducted and the possible outcome (e.g. disciplinary action, and dismissal or referral to the DBS or regulatory body).

The accused member of staff should:

Be treated fairly and honestly and helped to understand the concerns expressed and processes involved;
Be kept informed of the progress and outcome of any investigation and the implications for any disciplinary or related process;
If suspended, be kept up to date about events in the workplace.
The employer may need to seek advice from their LADO, the police and / or local authority children's social care about how much information should be disclosed to the accused person. However, providing information to the accused person throughout the process of dealing with the concern or allegation is an essential part of the common law duty to act fairly. The person that is alleged to be responsible for abuse and/or neglect should be provided with sufficient information to enable them to understand what it is that they are alleged to have done or threatened to do that is wrong and to allow their view to be heard and considered. This also needs to be seen in the wider context of prevention, for example, information can be used to support people to change or modify their behaviour. Feedback should be provided in a way that will not exacerbate the situation or breach the Data Protection Act 2018 or UK General Data Protection Regulations.

Consideration should be given to withholding information in the following circumstances:

Whether it is safe to disclose – this applies both to any child/ren and any witnesses particularly where there is domestic abuse;
If the matter is subject to police involvement, the police should always be consulted so criminal investigations are not compromised.
The Local Government Ombudsman and the Parliamentary and Health Ombudsman can provide advice and the Information Commissioner provides advice on sharing information.

Confidentiality
10.5

Every effort should be made to maintain confidentiality and guard against publicity while an allegation is being investigated or considered. Apart from keeping the child, parents and accused person (where this would not place the child at further risk) up to date with progress of the case, information should be restricted to those who have a need to know in order to protect children, facilitate enquiries and manage related disciplinary or suitability processes.

10.6

The police should not provide identifying information to the press or media, unless and until a person is charged, except in exceptional circumstances (e.g. an appeal to trace a suspect). In such cases, the reasons should be documented, and partner agencies consulted beforehand.

Reporting restrictions regarding allegations against teachers
10.7

Parents and carers should also be made aware of the requirement to maintain confidentiality about any allegations made against teachers whilst investigations are ongoing as set out in Section 13 of the Education Act 2011 (which amended the Education Act 2002). If parents or carers wish to apply to the court to have reporting restrictions removed, they should be advised to seek legal advice.

10.8

The restrictions remain in place unless or until the teacher is charged with a criminal offence, though they may be dispensed with on the application to the Magistrates' Court by any person, if the court is satisfied that it is in the interests of justice to do so, having regard to the welfare of:

The person who is the subject of the allegation, and
The victim of the offence to which the allegation relates.
There is a right of appeal to the Crown Court.

10.9

This restriction will apply to allegations made against any teacher who works at a school, including supply and peripatetic teachers. 'School' includes academies, Free Schools, independent schools and all types of maintained schools.

10.10

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.

10.11

The legislation imposing restrictions makes 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 who, 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).

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