

Procedure for Managing Allegations Against Staff, Carers and Volunteers

The attached a revised procedure is to be utilised where an allegation of abuse is made against a person who works with children.

The procedure has been reissued in the light of the recent revision to the Derbyshire Safeguarding Derby and Derbyshire Safeguarding Children Partnership - Derby and Derbyshire Safeguarding Children Procedures. There have been a number of amendments which reflect those made to the relevant chapter of the procedures.

This update has been provided to support the current procedures. It was delayed until we were able to obtain national clarity around “unfounded” allegations specifically in relation to references.

There will be a further update later in the year once the Derbyshire Safeguarding Derby and Derbyshire Safeguarding Children Partnership - Derby and Derbyshire Safeguarding Children Procedures have been updated to reflect the changes made to the KCSiE for September 2021. The partnership has provided a briefing in relation to the latest changes and in particular the new part 2 of Section 4 which is in relation to low level concerns. You should make yourself familiar with this in advance of the final agreed procedures being published.

You may remember that, to enhance the consistency and ease of use for schools, the advice and guidance document for managing allegations in schools simply replicates the relevant chapter (2.2) from the Derby and Derbyshire Safeguarding Children Partnership – Derby and Derbyshire Safeguarding Children Procedures, BUT with additions throughout detailing specific information, advice and guidance for use in school settings. These additions are shown in *red Italics*, so they are easily distinguishable from the original Derby and Derbyshire Safeguarding Children Procedures chapter.

The wording below which replicates paragraph 12 of Chapter 2.2 of the Derby and Derbyshire Safeguarding Children Partnership – Derby and Derbyshire Safeguarding Children Procedures identifies the descriptors of the outcomes on conclusion of the case. We are informed that the order in the summary of the possible outcomes is merely a list and not intended to represent an order of severity. Representation has been made to ask that this be reflected in the wording when the document is reviewed later this year

Please insert, in the space on page 8, the name of the senior manager, normally the Headteacher, who will receive reports of allegations against staff and make referrals as appropriate and any senior member of staff designated to act in the absence of that senior manager.

The key amendments can be summarised as follows:

- 2.1 Initial Considerations - The senior manager/ designated officer in school should consult the allegations against staff, carers and volunteers procedures and/or the criteria which is written on the referral problems to determine whether, using their professional judgment, a referral is required. The Local Authority Designated Officer (LADO) is not available to give advice without prior receipt of a written referral.

- Where schools approach the Local Authority to provide an independent investigation service as part of the HR advisory service traded service, the charge made to the school will differ according to the HR advisory service package purchased.

- 12. Action on Conclusion of a case – the outcome descriptions now reflect the terminology required.

- The following points of clarification have been added:

  • Section 1, Introduction has been updated to note that once they have received the referral form, the duty LADO will review the referral information and contact the referrer to discuss whether the allegations threshold has been met and then provide further advice and support;

  • Section 2.1, Initial Considerations has been updated to reinforce that when an employer has a concern about an employee's behaviour it is imperative that they ensure that the necessary safeguarding procedures are followed, and children concerns are escalated. The referrer should complete the written LADO referral form and email to the responsible local authority. The LADO on duty will then contact them within 1 working day to discuss their referral;
  • Section 9, Record Keeping has been updated to note the requirement for organisations to retain documents relating to allegations while the Independent Inquiry into Child Sexual Abuse (IICSA) is ongoing. A link to guidance on record retention issued by the Inquiry has been added.

- Clarification has been provided that unfounded allegations should not be included in any reference. This is additional to the allegations which are found to be false, unsubstantiated or malicious which should not be included in references and are already referenced in the document.

Schools should formally adopt the procedure and ensure all relevant personnel are informed of the contents, of where the document can be accessed and of the relevant in-school processes to support adherence to the requirements. Any remaining copies of the former guidance for schools should be destroyed/deleted to avoid confusion.

Schools are reminded that in the event of an allegation being made, the Senior Manager in school should consult these procedures and part 4 of the Keeping Children Safe in Education Statutory Guidance and/or the criteria which is written on the referral form to determine whether, using their professional judgement, a referral is required.

For any queries about the procedure or if you would like an excel template of the SCR document, please contact the Schools HR Advisory Service, Schools.HRAdvisory@derbyshire.gov.uk. All consultants and senior consultants can be contacted for support in the application of the procedure.

Date Last Updated	**Confirmed Current**
Sept 2021	Sept. 2024

2.2 Allegations Against Staff, Carers and Volunteers

SCOPE OF THIS CHAPTER

These procedures are based on the framework for dealing with allegations of abuse made against a person who works with children, detailed in Chapter 6 and Appendix 5 of Working Together to Safeguard Children (2010 - now archived) and **Keeping Children Safe in Education: Statutory Guidance for Schools and Colleges). They** should be followed by all organisations providing services for children and staff (including foster carers and prospective adopters), carers or volunteers who work with or care for children.

All references in this document to ‘staff’ or ‘members of staff’ should be interpreted as meaning all paid or unpaid staff – including supply staff, professionals and volunteers (including for example, foster carers, approved adopters and child minders). This chapter also applies to any person who manages or facilitates access to an establishment where children are present.

AMENDMENT

In April 2020 this guidance was reviewed locally, and the following points of clarification added:

- **Section 1, Introduction** has been updated to note that once they have received the referral form, the duty LADO will review the referral information and contact the referrer to discuss whether the allegations threshold has been met and then provide further advice and support;
- **Section 2.1, Initial Considerations** has been updated to reinforce that when an employer has a concern about an employee's behaviour it is imperative that they ensure that the necessary safeguarding procedures are followed, and children concerns are escalated. The referrer should complete the written LADO referral form and email to the responsible local authority. The LADO on duty will then contact them within 1 working day to discuss their referral;

- **Section 9, Record Keeping** has been updated to note the requirement for organisations to retain documents relating to allegations while the Independent Inquiry into Child Sexual Abuse (IICSA) is ongoing. A link to guidance on record retention issued by the Inquiry has been added

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1. Introduction

These procedures should be applied when there is an allegation or concerns that any person who works or volunteers with children, in connection with their employment (including supply staff) or voluntary activity has:

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

All agencies must have mechanisms to identify patterns or complaints or concerns raised about a member of staff which taken together raise suspicions of harm and therefore warrant referral.

If concerns arise about a person's behaviour in regard to their own children or family, the Police and/or Children's Social Care need to consider informing the Local Authority Designated Officer (LADO) (also known as Designated Officer for the Local Authority) and the person's employer in order to assess whether there are implications for children or transferable risk with whom the person has contact at work. Concerns about an adult at risk should be referred to Adult Social Care; see **Derby Safeguarding Adults Board or Derbyshire Safeguarding Adults Board.**

These behaviours should be considered within the context of the four categories of abuse i.e. physical, sexual and emotional abuse and neglect, and include concerns relating to conduct at or outside work, and 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 (defined in Section 21 Sexual Offences Act 2003) in respect of that child (even if consensual) - see Sections 16-19 Sexual Offences Act 2003);
- 'Grooming' i.e. meeting a child under the age of 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/email messages or images, gifts, socialising;

- Possession of indecent photographs/pseudo-photographs of children;
- Inappropriate behaviour towards children and/or conduct (i.e. social media, domestic abuse).

Once the Local Authority Designated Officer (LADO) has received the referral form, the duty LADO will review the referral information and contact the referrer to discuss whether the allegations threshold has been met and then provide further advice and support; this does not necessarily mean all discussions will lead to a LADO process.

There should be a clear distinction between an allegation, a concern about the quality of care or practice and a complaint. Organisations should also have clear whistleblowing procedures and these should be referenced in staff training, codes of conduct and culture.

Schools are reminded that a number of other school policies may also be relevant to the handling of any allegation of harm to a child made against a member of staff. These include:

- *Disciplinary Policy*
- *Child Protection/Safeguarding Policy*
- *Confidential Reporting Code (Whistleblowing Policy)*
- *Intimate and Personal Care*
- *Physical Intervention Policy*
- *Acceptable Use of Internet & Electronic Communication*
- *Recruitment & Selection Policy*
- *Safe Working Practice*
- *School Complaints Procedure*
- *Continuous Professional Development (to ensure relevant training is kept up to date)*

2. Roles and Responsibilities

Each Derby and Derbyshire Safeguarding partnership member organisation should identify a named senior officer, known as the designated officer, with overall responsibility for:

- Ensuring that the organisation deals with allegations in accordance with these procedures;
- Resolving any inter-agency issues;

- Liaising with the Derby and Derbyshire Safeguarding Children Partnership on the subject.

Employers and voluntary organisations should also ensure they have clear policies in place setting out the process, including timescales, for investigation and what support/advice is available to those individuals whom allegations have been made.

Local Authorities should, in addition, have designated a particular officer *(the LADO),* or team of officers to:

- Be involved in the management and oversight of individual cases;
- Create a 'LADO' record on Children's Social Care electronic systems;
- Provide advice and guidance to employers and voluntary organisations;
- Liaise with the Police, Social Care 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.

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.

See **Local Contacts**.

Employers should designate:

- A named senior manager to whom allegations or concerns should be reported;
- A named deputy to whom reports should be made in the absence of the designated senior manager or where that person is the subject of the allegation or concern. Ideally this should not be the same named designated safeguarding lead for children.

  *For schools the named senior manager will be the Headteacher the named senior manager, nominated to act **in their absence is** Deputy or Head of School.I The Trust Leader is the person designated to receive any allegation made against the*

Headteacher and should this not be possible for any reason, the report should be made directly to the LADO.

The Detective Inspector from the Police City or County Referral Unit will:

- Have a strategic oversight of the local Police arrangements for managing allegations against staff and volunteers;
- Liaise with Derby and Derbyshire Safeguarding Children Partnership on the issue;
- Ensure compliance.

The Police City or County Referral Unit should designate a detective sergeant(s) to:

- Liaise with the LADO;
- Take part in strategy discussions;
- Create a referral and determine if a crime is to be recorded; where a child alleges assault and has an injury, an alleged crime will always be recorded;
- Review the progress of the cases in which there is a Police investigation;
- Ensure the LADO is updated with the outcome of a criminal investigation or related prosecution.

2.1 Initial Considerations

The first priority must be to ensure the immediate safety of the child and other children affected, or who may be in contact with the individual (including their own children). In a residential setting, it will be appropriate to consider what supervising arrangements are required to safeguard the child. Some allegations will be so serious they require immediate intervention by Police and/or Social Care. In these situations the employer will need to involve the Police (for example if the person is deemed to be an immediate risk to children or there is evidence of a possible criminal offence) and/or Children's Social Care where there are immediate Child Protection concerns e.g. where a child has been injured. Where there is no such evidence, the employer should discuss the allegations with the LADO in order to help determine whether Police and/or Social Care involvement is necessary.

The employer should not ask the employee any questions that will interfere with any criminal investigation until it has been agreed by LADO and Police.

The employer should immediately complete the LADO Referral Form (see **Documents Library, Report Forms and Templates**) and email securely to:

- Derbyshire:; **professional.allegations@derbyshire.gov.uk**

When an employer has a concern about an employee's behaviour it is imperative that they ensure that the necessary safeguarding procedures are followed, and children concerns are escalated. The referrer should complete the written LADO referral form and email to the responsible local authority. The LADO on duty will then contact them within 1 working day to discuss their referral.

Allegations reported to the Police and/or Children's Social Care should also be immediately reported to the LADO. The purpose of an initial discussion is for the employer and LADO to consider the nature, content and context of the allegation and agree a course of action. The LADO will ask the employer to provide or obtain relevant information, such as previous history, whether the child or the family have made similar allegations and the individual's current contact with any children.

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 in **Section 1, Introduction** or may do so without warranting consideration of either a Police investigation or enquiries by Children's Social Care.

The Senior Manager / designated officer in school should consult these procedures and part 4 of the Keeping Children Safe in Education Statutory Guidance and/or the criteria which is written on the referral form to determine whether, using their professional judgement, a referral is required. The Local Authority Designated Officer (LADO) is not available to give advice without prior receipt of a written referral.

The LADO will consult with Children's Social Care and the Police as appropriate and inform the employer of any intention to do so.

Regulatory bodies such as Teachers Regulation Agency (TRA) and the Care Quality Commission, will need to be informed of any allegations made against members of staff who work in specific sectors. It is the responsibility of the employer to make the appropriate referrals. Those regulatory bodies will be informed of the outcomes of strategy meetings held under these procedures.

Where an individual works for a contracted service, the commissioner of that service will also need to be informed and involved in subsequent discussions and co-operate in any enquiries from the LADO and Police. Where an individual is self-employed, an agreement must immediately be reached as to which agency – Social Care, Police or regulatory body, or the LADO themselves – will take responsibility for communication with the individual.

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

- A Police investigation of a possible criminal offence;
- 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, including undertaking an immediate initial risk assessment (See **Section 3, Suspension**)

The initial sharing of information and evaluation may lead to a decision that 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 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.

Following a written referral, the discussion with the LADO is likely to include:

- *Clarification whether the allegation is within the scope of these procedures;*
- *Whether the allegation is demonstrably false or unfounded (without conducting an investigation, occasionally it can be identified that the allegation cannot be accurate);*
- *The nature of the concern, how and why it has arisen, any previous information about the child or the individual who is the subject of the allegation and their relationship (including any previous allegations made by the child);*
- *Any relevant background information including any particular history between the child and individual staff member;*
- *Any arrangements to secure the immediate safety of the child/ren, including consideration of the safety of the individual's own children;*
- *The necessity for a strategy meeting and whether the referrer has followed the relevant procedures for example child protection procedures;*
- *The requirements of a referral to the police for investigation and whether witness statements should be taken, including from the individual.*

The employer should seek advice from LADO regarding the point at which information should be shared with the subject accused. The LADO will make an informed decision based on the circumstances of the case, in consultation with Police, and provide necessary leaflets for the employer to distribute. It is extremely important that the employer provides the subject with as much information as possible at that time. However, where a strategy

discussion is needed, or Police or Children's Social Care need to be involved, the employer should not do that until those agencies have been consulted and have agreed exactly what information can be disclosed to the accused.

If the allegation is not demonstrably false or malicious (see **Section 12, Action on Conclusion of a Case**), and there is cause to suspect a child is suffering or is likely to suffer **Significant Harm**, a referral should be made to Children' Social Care. If the allegation is about physical contact, the strategy discussion or initial evaluation with the Police should take into account that some injuries may have been sustained in the course of reasonable restraint. A strategy discussion should be convened in accordance with **Child Protection Section 47 Enquiries Procedure, Strategy Discussions/ Meetings**; this meeting does not involve the accused person.

Where there is not an identified child, but there is still potential risk to children in general, the LADO together with the employer and Police should consider who should conduct any investigation. A strategy meeting may also be necessary to evaluate the information and agree a course of action.

Where it is clear that an investigation by the Police or Children's Social Care is unnecessary, or the strategy discussion or initial evaluation decides that is the case, the LADO should discuss the next steps with the employer. In those circumstances, the options open to the employer depend on the nature and circumstances of the allegation and the evidence and information available. This will range from taking no further action to dismissal or a decision not to use the person's services in the future. It is important for the employer to write clearly in the personnel file the rationale for any decisions taken in respect of the employee.

In some cases, further enquiries will be needed to enable a decision about how to proceed. If so, the LADO should discuss with the employer how and by whom the investigation will be undertaken. In straightforward cases, the investigation should normally be undertaken by a senior member of the employing organisation. In some circumstances such as the lack of resource within the agency, or the nature or complexity of the allegation, the employer may wish to consider commissioning an independent investigator.

Schools may approach the Local Authority to provide an independent investigation of allegations, as part of the HR services traded to schools. There is an additional charge for this service and schools should consult S4S for more information on the charges that will apply. Where the allegation is about physical contact, the initial evaluation with the police or the strategy discussion should take account that teachers and other designated school staff are entitled to use reasonable force to control or restrain pupils in certain circumstances,

including dealing with disruptive behaviour. The Physical Intervention Policy should inform the evaluation of the situation.

The employer should also seek a written account from the accused person outlining their perspective of events leading to the allegation. If the individual wishes, this account may be shared at the strategy meeting, though they must be made aware that the Police will be present and may use this account as evidence in their investigation. *The staff member should be advised to consult their professional association or trade union representative before submitting an account as it is likely it would be utilised as evidence.*

The individual who is the subject of the allegation does not attend the Strategy Meeting in person.

3. Suspension

The possible risk of harm to children posed by an accused person should be evaluated and managed in respect of the child(ren) involved and any other children in the accused member of staff's home, work or community life.

In some cases, the employer will need to consider suspending the accused until the case is resolved, or make other arrangements to remove the accused person from contact with the child/children, until the investigation is complete. If the employer is concerned about the welfare of the other children in the community or the accused person's family, these concerns should be reported to the LADO.

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. Suspension should be considered only in a case where:

- There is a cause to suspect a child/ren is at risk of harm; or
- The allegation is so serious that it might be grounds for dismissal.

The employer must consider carefully whether the circumstances warrant suspension or whether the result that would be achieved by suspension could be obtained by alternative arrangements. They should seek advice from their human resources team and the LADO. Depending on the nature of the allegation the employer 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.

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 LADO. This should include what alternatives to suspension have been considered and why they were rejected. The accused person should be given written confirmation, usually within one working day, giving as much detail as appropriate for the reasons for the suspension. The employer should also inform the person of who their named contact is within the organisation, their contact details and the support available to them.

Please see the detailed information on Suspension in the School's disciplinary procedure. A model Disciplinary Policy has been provided to schools purchasing the LA traded HR service. This contains both information and advice concerning the making of a decision to suspend and the appropriate procedure. It is important to follow the correct process. The school should endeavour to find an alternative to suspension, based on an assessment of risk. The following should be considered.

- *Redeployment within the school or college 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 in the school or college so the individual does not have unsupervised access to children.*
- *Moving the child or children to classes where they will not come into contact with the individual, making it clear that this is not a punishment and only in consultation with parents.*
- *Temporarily redeploying the individual to another role in a different location (generating no additional cost and accessible to the individual).*

It is recognised that smaller schools may have more difficulty in identifying alternatives to suspension. However, full consideration should still be given to alternatives to suspension.

Children's Social Care or the Police cannot require the employer to suspend the member of staff or a volunteer, although they should give appropriate weight to their advice. The power to suspend is vested in the employer. Where a strategy discussion or initial evaluation concludes that there should be enquiries by Children's Social Care and/or an investigation by the Police, the LADO should canvass Police and Children's Social Care for views about whether the accused needs to be suspended from contact with children. The LADO should then inform the employer of these views.

The power to suspend is vested in the Headteacher/Trust Leader, Police involvement does not make it mandatory to suspend an individual and the decision should be made on a case by case basis.

Where there remains disagreement about whether an individual should be suspended, the Chair of the strategy meeting or individual members of the meeting may consider writing to the Headteacher and Trust Leader requesting further consideration of the matter.

If a suspended person is to return to work, the employer should consider what help and support might be appropriate, for example 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 wor place.

Please see the Disciplinary Procedure for details of the role of a Contact Officer and other support for a suspended individual.

4. Supporting those Involved

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 key 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 Children's Social Care or the Police. *It is not always possible to share the content of the allegation with the individual, particularly in circumstances where a police investigation is required, however where it is agreed that information can be shared, it is expected that this will take place in a timely manner. Where decisions are made that it is suitable to do so, and that where they are suspended, 4 weekly reviews will be undertaken. Under the LA model Disciplinary Procedure the initial suspension review meeting should be held within 5 working days, unless an alternative is agreed with the individual.*

The employer should appoint a named representative (not the investigating officer), 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. Where an individual is self-employed, agencies and the LADO must agree who will supply this function. *Please see the school's Disciplinary Procedure for information on the role of the Contact Officer.*

The individual should be advised to contact their trade union representative if they have one, or other source of professional support. They should be provided with access to welfare counselling or medical advice where this is provided by the employer.

Where the individual is suspended a Contact Officer should be appointed as particular care needs to be taken to ensure they are kept informed of both progress of the case and current work issues. Social contact with colleagues 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.

If the employee changes job whilst the LADO investigation is ongoing, the employer must make the employee aware that it is their responsibility to inform the prospective new employer of the unresolved LADO complaint. Failure to do this may result in an offer of employment being withdrawn.

It is expected for the individual to have access to the following.

- *Copy of the Local Safeguarding Children Board's Procedure for Allegations of Abuse made against a Person who works with Children;*
- *Information on how to access legal/union advice and representation;*
- *Any relevant information on the process. These do not replace the need for a face-to-face discussion with the nominated person providing support but provide a framework for discussion;*
- *Information on the process of the enquiry and planned timescales;*
- *Information on the interviews which may be conducted;*
- *Information on independent support which may be available, e.g. employee counselling service, professional association / Union, General Practitioner, Education Support.*

Minutes from the Strategy Meeting **should not** be shared with the individual against whom the allegation is made (see **Section 2, Roles and Responsibilities**).

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. However, where a **Strategy Discussion** is required, or Police or Children's Social Care need to be involved, the employer should not do so until those agencies have been consulted and have agreed what information can be disclosed to the parents or carers. Parents or carers should also be kept informed about the progress of the case and told the outcome where there is not a criminal prosecution i.e.

whether substantiated or not and should be told the disciplinary outcome in confidence. Where there is a criminal investigation, the Police have a responsibility to keep a victim informed, and any prosecution is in the public domain, however they cannot be told the outcome of any disciplinary or other internal process. Where the allegation is against a teacher, parents and carers should also be made aware of the prohibition on reporting or publishing allegations about teachers. If parents or carers wish to apply to the court to have reporting restrictions removed, they should be told to seek legal advice.

The agency together with 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 agencies should take place to ensure that the child's needs are addressed.

5. Confidentiality

It is extremely important that when an allegation is made, the employer makes every effort to maintain confidentiality and guard against unwanted publicity while the allegation is being investigated or considered. When allegations are made against a teacher employers must comply with the Education Act 2011, which 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 that 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. Breaching the reporting restrictions is a criminal offence; publication includes any speech, writing, relevant programme or communication in whatever form, which is addressed to the public at large or any section of the public; this includes social networking sites.

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 to trace a suspect, they must apply to a magistrate’s court to request that reporting restrictions be lifted.

The employer should take advice from the LADO, Police and Children's Social Care to agree the following:

- Who needs to know and exactly what information can be shared;
- How to manage speculation, leaks and gossip;
- What, if any information can be reasonably given to the wider community to reduce speculation; and
- How to manage press interest if and when it should arise.

Schools will have to determine whether staff at the school are briefed with more information than the wider school community, including reminding staff of the strict confidentiality of any information provided and the response to give to any external enquiries. Staff should also be reminded of the potential consequences of breaking confidentiality. The opinion of the individual staff member and the LADO should be sought, and every effort made to reach agreement on what will be communicated. At the minimum, the individual should be informed of what will be communicated to appropriate sections of the school community.

Schools should consult with the LADO concerning any communication from the press and in relation to media coverage of the case. A central strategy will be formulated with the school, involving the Trust's press office, senior officers and HR advice. It is important that a single approach to communication is agreed with all relevant parties/agencies.

6. Resignations and 'Settlement / Compromise Agreements'

If the accused person resigns, or ceases their service, this should not prevent an allegation being followed up in accordance with this policy. The employer must also make a referral to the **Disclosure and Barring Service (DBS)** and any regulatory body when the criteria are met; there is a legal duty to refer to the DBS and not doing so is a criminal offence.

Every effort should be 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 co-operate with the process. The accused should be given the opportunity to answer the allegation and make representations about it; wherever possible this should be in the form of a written response. 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 information available, should continue even if that cannot be done or the accused does not co-operate.

Settlement / 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 future reference, should not be used in these cases. Such an agreement will not prevent a thorough police investigation where that is appropriate.

7. Organised and Historical Abuse

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 also **Investigating Complex (Organised or Multiple) Abuse Procedure**.

Historical allegations should be responded to in the same way as contemporary concerns. It will be important to ascertain if the person is currently working with children and if that is the case, to consider whether the current employer should be informed.

8. Information Sharing

In a strategy discussion or the initial evaluation of the case, the agencies involved should share all relevant information they have about the person who is 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 the investigation proceeds and will enable the Police to share relevant information without delay at the conclusion of their investigation and any court case.

The school representative attending the strategy meeting is advised to establish whether other agencies are expecting, and planning, to be able to share information from their enquiries if, and when, the case is handed back to the school for use in any disciplinary procedure.

The staff member who is the subject of the allegation should be reminded of the advice to consult their representative, as they may benefit from guidance on the benefits and implications of giving consent to the sharing of their statement.

Children's Social Care 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 enquiries relevant to a disciplinary case can be passed to the employer without delay.

9. Record Keeping

Details of allegations that are found to have been malicious (see **Section 12, Action on Conclusion of a Case**) should be removed from personnel records; these are a very small minority of allegations made. 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 record should be retained for as long as necessary in line with guidance from the Independent Inquiry into Child Sexual Abuse (IICSA).

One 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 disclosures reveal information from the Police about an allegation that did not result in a criminal conviction. It will help prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time.

The Information Commissioner has published guidance on employment records in its Employment Practices Code and supplementary guidance.

Notes of each strategy meeting will be sent to:

- *Social worker;*
- *Chair of meeting;*
- *Police, if present;*
- *Child Protection Support Officer (for tracking purposes);*
- *Case manager for the employer (e.g. Headteacher or Chair of Governors);*
- *Any other invitees.*

10. 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.

Where it is clear immediately that the allegation is unsubstantiated or malicious, the case should be resolved within one week. The decision about the need for a strategy meeting

should be taken within 5 days. Any disciplinary action should be progressed as quickly as possible via the employer's disciplinary procedures.

Where it is decided that there will be no police involvement, it will be for the Headteacher to deal with the case. If there are still child protection concerns the Headteacher should discuss these with the LADO. If no formal disciplinary action is required, the Headteacher should instigate any appropriate follow up action within 3 working days. If disciplinary action may be necessary and it has been established, with the staff member and their representative that all relevant information has been collected and there is nothing further to be submitted or investigated, then the hearing should be arranged for within 15 days of the investigating officer's decision that there is a case to answer. Any additional disciplinary investigation needed should be progressed as soon as possible in accordance with the school's procedure.

11. Oversight and Monitoring

The LADO has overall responsibility for the oversight of the procedures for dealing with allegations; for resolving inter-agency issues; and for liaison with Derby and Derbyshire Safeguarding Children Partnership on the subject. The LADO will provide advice and guidance to the employer, liaise with the Police, Children's Social Care and other agencies and monitor the progress of cases to ensure that they are dealt with as quickly as possible, consistent with a thorough and fair process. Reviews should be conducted at fortnightly or monthly intervals, depending on the complexity of the case.

Police forces should also identify officers who will be responsible for liaising with the LADO, taking part in strategy discussion or initial evaluation, subsequently reviewing the progress of cases in which there is a Police investigation, sharing information on completion of the investigation or any prosecution.

If the Strategy Discussion or Children's Social Care single assessment decides that a Police investigation is required, the Police should also set a target date for reviewing the progress of the investigation and consulting with the Crown Prosecution Service (CPS) about whether to charge the individual, continue to investigate or close the investigation. Wherever possible that review should take place no later than four weeks after the initial evaluation. Dates for subsequent reviews, ideally at fortnightly intervals, should be set at the meeting if the investigation continues.

12. Action on Conclusion of a Case

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

- **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 prove or disapprove the allegation, the term therefore does not imply guilt or innocence.
- **Unfounded**: to reflect cases where there is no evidence or proper basis to which supports the allegation being made;
- **Substantiated**: there is sufficient identifiable evidence to prove the allegation.

The conclusion of any investigation should be clearly communicated in writing by the LADO to the employer, who is then responsible for communicating this to the individual along with any actions agreed within the investigation. The employer will be expected to feedback to the LADO when the actions agreed from the meeting have been completed. Where an individual is self-employed, it must be clearly agreed who will undertake this task and ensure the agreed action is put in place.

If an individual disputes the outcome of an investigation, their right of challenge will ordinarily be with the employer through disciplinary or grievance procedures. Employers, by agreeing actions with the LADO or in a strategy meeting, have accepted responsibility for these decisions and must be able to justify them to an employee or in any employment process. The same applies to any commissioner of a service or user of a volunteer. Where there is no-one in an equivalent position, or the individual has a complaint about the process rather than outcome, they should be informed about the Trust's complaints procedure

At the conclusion of the case, it is essential that agreement is reached on the following:

- *What information will be given to the child/parents and persons affected by the investigation and how, and by whom, this will be done;*
- *What information will be placed on files relating to children and staff;*
- *In the case of malicious allegations whether the record of this should be destroyed or retained.*

The School Business Officermust be notified of the outcomes of all cases, including the outcome of any disciplinary procedures.

Individuals may apply for access to their record under subject access procedure; such applications will be considered by the LADO and relevant documents, appropriately redacted, will be shared.

If a person who has been suspended can return to work the Headteacher should consider how best to facilitate this. The Headteacher should consult their HR Provider. Most employees will benefit from some help and support to return to work after a stressful experience. Depending on the circumstances a phased return and or the provision of a workplace mentor to provide assistance and support in the short term may be appropriate. The Headteacher should also consider how best to manage the staff member's re-integration into the school community, in particular with the child or children who made the allegation. There is further guidance in the Suspension section of the LA model Disciplinary Procedure and accompanying Advice & Guidance. Depending on the staff member's terms and conditions, there may need to be a calculation of whether the employee has any holiday owing.

13. 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 decided to close the investigation without charge, or not to continue to prosecute the case after the person has been charged. In these circumstances HR and the employer should discuss whether any further action, including disciplinary action, is appropriate and if so, how to proceed. The information from Children's Social Care and the Police should inform the decision where relevant.

14. Disciplinary or Suitability Process

The LADO and employer should discuss whether disciplinary or other internal action is appropriate in all cases independently of any decision by the Police and CPS in relation to prosecution. However, the decision regarding any disciplinary action is the sole responsibility of the employer; they will be separately accountable for any such decision, which is subject to the usual criteria and right of appeal as usual under employment law. The employer should always take advice from their HR and/or legal advisers.

The discussion should consider any potential misconduct or gross misconduct on the part of the member of staff and take into account any relevant information from the Police and/or Children's Social Care, the result of any investigation or trial and the different standard of

proof in disciplinary and criminal proceedings. Employers should also consider lesser action, such as increased supervision, mentoring, training, or agreed transfer to alternative duties.

In the case of supply, contract and volunteer staff, normal disciplinary procedures may not apply. In these circumstances, the LADO and employer should act jointly with the providing agency.

Where an individual is self-employed, employer options are not available. Consideration should be given to how the individual's activity can be restricted or monitored through working with professional or regulatory bodies, DBS, HSE, local commissioners or Licensing committees. The Police and local DBS teams should ensure that appropriate information is included on any future DBS checks. The individual must be informed of any such action or referral, and it must be clearly agreed who is taking responsibility to do this.

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 his or her services, the employer must refer the case to the **Disclosure and Barring Service** for consideration of inclusion on the barred lists; or to refer to any professional body.

There is a legal requirement for employers to make a referral to the Disclosure and Barring Service (DBS) where they think that an individual has engaged in conduct (including inappropriate sexual conduct) that harmed (or is likely to harm) a child or if a person otherwise poses a risk of harm to a child, and an employer has removed the individual from relevant work with children or the person has chosen to cease relevant work in circumstances where they would have been removed had they not done so.

Referral should be made as soon as possible after the resignation or removal of the member of staff involved and within one month of ceasing to use the person's services. Substantiated allegations are also likely to be Professional misconduct cases and should be referred to the relevant regulatory body. *For teachers a referral must also be made to the Teachers Regulation Agency (TRA).*

The employer should provide written confirmation to the LADO of when the referral was reported to the Disclosure and Barring Service, Teachers Regulation Agency and any other regulatory body. In addition, the LADO should also be informed of the outcomes of any disciplinary hearings and appeals in a timely manner.

Where it is decided on the conclusion of a case that the individual can be considered for return to work with children, the employer must consult with the LADO about any required safeguarding measures.

15. References

Employers should seek guidance from their human resources team in regard to including allegations in agency 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.

See also Section 9, Record Keeping, above.

The LA model Recruitment and Selection procedure includes a recommended reference proforma for providing the relevant information. There is advice on the provision/request of references in the Safer Recruitment statutory guidance from the DfE, contained in Keeping Children Safe in Education 2015 and the safer recruitment training. Information concerning cases where an allegation was proven to be false, unfounded, unsubstantiated or malicious should not be included in references.

16. Allegations against Foster Carers and Prospective Adoptive Parents

Allegations against foster carers and prospective adoptive parents will be dealt with under these procedures. Specific details of how to manage these allegations are outlined in the **Derbyshire County Council Children's Services Procedures**.

Any person who receives information, or suspects a child has suffered or is suffering **Significant Harm**, must immediately inform the child's social worker or manager. A senior manager within the Fostering Service is identified to be the designated person who liaises with the LADO in all cases to which this procedure applies and manages the allegations process.

Although there may be insufficient evidence to support a Police prosecution, this does not mean that action cannot be taken to protect a child nor that the termination of a foster carer's approval cannot be considered.

It should also be noted that it may be necessary to consider during an investigation what action, if any, should be taken with regard to other children with whom foster carers against whom allegations are made have contact, including their own children.

17. 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 agency's procedures and practice to help prevent similar events in the future. This should include issues arising from the decision to suspend the member of staff, the duration of the suspension and whether or not the suspension was justified. Lessons should also be learnt from the use of suspension when the individual is subsequently reinstated.

18. Action in Respect of Malicious, False or Unsubstantiated Allegations

If an allegation is determined to be malicious, false or unsubstantiated, the employer and LADO should consider if the child concerned is in need of any services or if they may have been abused by someone else and refer as appropriate.

If an allegation is shown to be deliberately invented or malicious, the Headteacher should consider whether any disciplinary action against the pupil is appropriate and/or whether the Police should be asked to consider if action is appropriate against the accuser or any other person responsible for the allegation, especially one who is not a pupil.

See flowchart on the next page.

Version 5 – May 2021 PUBLIC

Schools/Colleges/residential

Allegations/Concerns against Staff, Volunteers & Carers

LADO Process

Assess & ensure the immediate safety of the children/Young People

Follow your organisational procedure to secure this

Notify & consult with a Senior Manager - Headteacher/Principal/Senior Leader

If the Senior Manager/Head teacher/ Principal/Governor is the subject of the concern or connected, identify an alternative professional

Concern/Allegation -

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

Complete Allegations Against Staff, Volunteers & Carers Referral Form

Document library

https://derbyshirescbs.proceduresonline.com/index.htm

The LADO does not investigate or replaces a safeguarding process or HR procedure, you should be putting in place those safeguards and not waiting for LADO to respond.

Send to:

Professional.Allegations@derbyshire.gov.uk

LADO
Within 24 hours LADO will screen and assess whether the allegation/concern meets the criteria and will advise, support, plan a response.

A joint child protection & Police response may follow