



Bath & North East Somerset
Local Safeguarding Children Board

Managing Allegations against Staff or Volunteers who work with Children

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1. Introduction

The Managing Allegations Procedures are updated to reflect amendments to Working Together 2015 and Keeping Children Safe in Education 2015 and this guidance should be read in conjunction with those documents.

Section 11 of the Children Act 2004 places a duty on a range of individual organisations and professionals working with children and families to promote the welfare of children and to ensure that they are protected from harm, this includes any services that they contract out to others. These organisations should have in place arrangements that reflect the importance of safeguarding including clear policies for dealing with the allegations against people who work with children.

1.1 There will be occasions when we are alerted to allegations of abuse against children. The Local Safeguarding Children Boards (LSCBs) should have arrangements in place for managing, monitoring and evaluating how effective they are.

1.2 These procedures should be followed when there is an allegation or concern that any person who works with children, in connection with their employment 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 towards a child or children in a way that indicates he or she would pose a risk of harm if they work regularly or closely with children.

1.3 These behaviours should be considered within the context of the four categories of abuse (i.e. physical, sexual and emotional abuse and neglect). These include concerns relating 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
- 'Grooming', i.e. meeting a child under 16 with intent to commit a relevant offence

Other 'grooming' behaviour that gives rise to concerns of a broader child protection nature (e.g. inappropriate text / e-mail messages or images, gifts, socialising etc);

- Possession of indecent and distributing photographs and images of children.

1.4 All references in this document to 'members of staff' should be interpreted as meaning all paid or unpaid staff and volunteers, including foster carers and approved adopters. This chapter also applies to any person, who manages or facilitates access to an establishment where children are present.

2. Roles and responsibilities

2.1 Each LSCB member organisation should identify a named senior officer with overall responsibility for.

- Ensuring that the organisation deals with allegations in accordance with Bath and North East Somerset Procedures
- Liaising with the LSCB on the subject.

In B&NES the Head of Safeguarding & Quality Assurance, Lesley Hutchinson, has strategic oversight and Hester Edmond Senior Human Resources Consultant is the named Senior Officer for Schools

2.2 Local Authorities should have a Local Authority Designated Officer 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.

The Deputy Safeguarding Lead – Children & Quality Assurance, Mel Argles, is the LADO for Bath & North East Somerset Council

2.3 All settings that work with children and young people in a paid or voluntary capacity need to appoint:

- A designated senior manager to whom allegations or concerns should be reported;
- A 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.

2.4 The Police Detective Inspector or equivalent or Detective Chief Inspector on each Safeguarding Unit will:

- Have strategic oversight of the local police arrangements for managing allegations against staff and volunteers;
- Liaise with the LSCB on the issue;
- Ensure compliance with these procedures.

2.5 The police should designate a Detective Sergeant/s to:

- Liaise with the local authority designated officer (LADO);
- Take part in strategy 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.

2.6 Where an allegation relates to a Police Officer or member of Police Staff who work with children, this should be reported to Avon and Somerset Constabulary's Professional Standards Department (PSD). The PSD will determine whether the allegation should be referred to the Independent Police Complaints Commission for investigation or will be investigated internally by the PSD. The PSD will inform the Safeguarding Coordination Unit Manager of the allegation so that any safeguarding actions in relation to the affected child or children can be put in place.

3. Persons to be notified

The LADO's role is to advise the employer whether or not informing the parents of the child/ren involved will impede the disciplinary or investigative processes. If it is agreed that the information can be fully or partially shared, the employer should inform the parent/s. In some circumstances, however, the parent/s may need to be told straight away (e.g. if a child is injured and requires medical treatment). If that is the case then Children's Social Care should also advise and a decision made about proceeding under the LADO procedures or if Section 47 enquiries need to be initiated.

The parent/s and the child should be helped to understand the processes that are being undertaken taking into account their age and level of understanding.

If the allegation is made against a member of school staff then this should be referred to the Senior Human Resources Consultant in the first instance who should immediately discuss the allegation with the LADO. The purpose of an initial discussion is for the LADO jointly with the named senior officer to consider the nature, content and context of the allegation and to agree a course of action. If the incident takes place in a school, the Head Teacher should be notified. If the allegation is about the Head, the Chair of Governors will be informed.

The employer should seek advice from the LADO, the police and / or LA Children's Social Care about how much information should be disclosed to the person against whom the allegation has been made.

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

During these processes, the 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.

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

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4. Confidentiality

Every effort must be made to maintain confidentiality and guard against unhelpful speculation whilst an allegation is being investigated or considered. Apart from keeping the child, parents and person against whom the allegations have been made (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 processes.

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.

It is extremely important that when an allegation is made, the school or college maintain confidentiality and guard against unwanted publicity whilst an allegation is being investigated. Section 13 of the Education Act 2011 introduces new restrictions implemented in September 2012 on the publication of any information that would identify a teacher who is the subject of an allegation of misconduct that would constitute a criminal offence, where the alleged victim of the offence is a registered pupil at the school

5. Support

The organisation, together with LA Children's Social Care and / or police, where they are involved, must consider the impact on the child concerned and provide support as appropriate. Liaison between the agencies must take place in order to ensure that the child's needs are addressed.

As soon as possible after an allegation has been received, the member of staff being investigated should be advised by their employer to contact their union or professional association. The employer's Human Resources department/service 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. In the case of Bath and North East Somerset's commissioned services, similar supports should be offered by the contract manager. For volunteers working in sporting organisations, the regulatory body will signpost staff to support services.

6. Suspension

Suspension is a neutral act and it should not be automatic. It should be considered in any case where:

- There is cause to suspect a child has suffered, or is likely to suffer significant harm; or
- The allegation warrants investigation by the police; or
- The allegation is so serious that it might be grounds for dismissal.

The possible risk of harm to children 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.

When a strategy meeting / discussion is held or if LA children's social care or the police are to make enquiries, the LADO will seek their views on suspension with the employer. Only the employer (or the Head Teacher in schools with delegated authority from the governors), has the power to suspend an employee and they cannot be required to do so by a local authority or police.

If a suspended person returns to work following the outcome of an investigation, 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.

7. Resignations and 'settlement agreements'

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

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

Settlement agreements must **not** be used (i.e. where a member of staff agrees to resign provided that disciplinary action is not taken and that a future reference is agreed).

8. Organised and historical abuse

Investigators should be alert to signs of organised or widespread abuse and/or the involvement of other perpetrators or institutions.

Historical allegations should be responded to in the same way as current 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. Historical allegations should always be referred to the police in the first instance.

9. Whistle-blowing

All staff should be made aware of the organisation's whistle-blowing policy and feel confident to voice concerns about the attitude or actions of colleagues. This should be reflected in an organisation's induction, ongoing training and relevant policies.

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 the LADO.

10. Timescales

It is in everyone's interest for cases to be dealt with expeditiously, fairly and thoroughly and for unnecessary delays to be avoided. The LADO may request actions to take place within a particular timeframe in a strategy meeting and all parties must do their best to adhere to this.

11. Initial response to an allegation or concern

An allegation against a member of staff may arise from a number of sources (e.g. a report from a child, a concern raised by another adult in the organisation, or a complaint by a parent).

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

The person to whom an allegation or concern is first reported should treat the matter seriously, keep an open mind and report the matter to their designated child protection lead, or the deputy in their absence or where the designated senior manager is the subject of the allegation report to the deputy or other appropriate senior manager.

They should not:

- Investigate or ask leading questions if seeking clarification;
- Make assumptions or offer alternative explanations;
- Promise confidentiality, but give assurance that the information will only be shared on a 'need to know' basis.

11.2 Initial action by the designated senior manager

When informed of a concern or allegation, the designated senior manager should not investigate the matter or interview the member of staff, child concerned or potential witnesses.

The designated senior manager should report the allegation to the LADO normally **within one working day** and discuss the decision in relation to the agreed threshold criteria in www.southwestchildprotectionprocedures

Referrals should not be delayed in order to gather information and a failure

to report an allegation or concern in accordance with procedures is a serious matter.

If an allegation requires immediate attention, but is received outside normal office hours, the designated senior manager should consult the LA children's social care emergency duty team or local police and inform the LADO as soon as possible thereafter.

If a police officer receives an allegation, they should, without delay, report it to the designated Detective Sergeant Protect. The Detective Sergeant should then immediately inform the LADO.

Similarly an allegation made to LA Children's Social Care should be immediately reported to the LADO.

12. Consideration by the designated senior manager and the LADO

There are three possible strands in the consideration of an allegation:

- A police investigation of a possible criminal offence;
- Social Care enquiries and/or assessment about whether a child is in need of protection or services;
- Consideration by an employer of suitability to work and disciplinary action.

The LADO and the designated senior manager should consider first whether further details are needed and whether there is evidence or information that establishes that the allegation is false or unfounded. Care must be taken to ensure that the child is not confused as to dates, times, locations or identity of the member of staff.

If the allegation is not demonstrably false and there is cause to suspect that a child is currently suffering or is likely to suffer significant harm, the LADO should refer to LA children's social care and ask them to convene an immediate strategy meeting / discussion.

The police must be consulted about any case in which a criminal offence may have been committed. If the threshold for significant harm is not reached, but a police investigation might be needed, the LADO should immediately inform the police and convene an initial evaluation (similar to strategy meeting / discussion), to include the police, employer and other agencies involved with the child.

13. Strategy meeting / discussion

Wherever possible, a strategy meeting / discussion / initial evaluation should take the form of a meeting. However, on occasions a telephone discussion may be appropriate. The following is a list of *possible* participants:

- LADO (Chair)
- Social care manager (Chair) if strategy meeting relates to a child under S47 Children Act 1989;
- Relevant social worker and their manager;
- Detective sergeant;
- The Designated and/or named Safeguarding Children Health Professional (CCG); and always when an allegation concerns a health agency worker /professional;
- Consultant paediatrician;
- Designated senior manager for the employer concerned;
- Human resources representative;
- Contract Manager if the service is commissioned by Bath and North East Somerset;
- Legal adviser where appropriate;
- Member of a sport's regulatory body;
- Senior representative of the employment agency or voluntary organisation if applicable;
- Manager from the fostering service provider when an allegation is made against a foster carer;
- Supervising social worker when an allegation is made against a foster carer;
- Those responsible for regulation and inspection where applicable (e.g. CQC, GMC or Ofsted);
- Where a child is placed or resident in the area of another authority, representative/s of relevant agencies in that area;
- Complaints officer if the concern has arisen from a complaint.

The meeting should:

- Decide whether there should be a s47 enquiry and / or police investigation and consider the implications;
- Consider whether any parallel disciplinary process should 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 (in respect of teachers and authorised staff);

The strategy meeting / discussion / initial evaluation 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 in a timely way
- Consider issues for the attention of senior management (e.g. media interest, resource implications);
- Consider referral to Disclosure and Barring Service (DBS)
- Consider information and reports for consideration by barring;
- Consider risk assessments to inform the employer's safeguarding arrangements;
- Agree dates for future strategy meetings / discussions.

A final strategy meeting / discussion / initial evaluation 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.

The strategy meeting / discussion / initial evaluation should take into account the following definitions when determining the outcome of allegation investigations:

1. **Substantiated:** there is sufficient identifiable evidence to prove the allegation;
2. **False:** there is sufficient evidence to disprove the allegation;
3. **Malicious:** there is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false;
4. **Unfounded:** there is no evidence or proper basis which supports the allegation being made. It might also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively they may not have been aware of all the circumstances
5. **Unsubstantiated:** this is not the same as a false allegation. It means that there is insufficient evidence to prove or disprove the allegation; the term therefore does not imply guilt or innocence.
NB. Keeping Children Safe in Education 2015 has removed the definition 'unfounded'. The South West LADO forum has made a local decision to keep this definition.

14. Allegations (or concerns raised) against staff in their personal lives

If an allegation or concern arises about a member of staff, outside of their work with children, and this may present a risk of harm to child/ren for whom the member of staff is responsible, the general principles outlined in these procedures will still apply.

In addition, the individual may be disqualified from relevant childcare under the Childcare Act 2006 and would need to be immediately removed from working with children of a specified age pending an application to Ofsted.

The strategy meeting / discussion should 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 strategy 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 strategy 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. In these circumstances, a strategy 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.

15. Internal disciplinary investigation

The LADO, HR and the designated senior manager should discuss whether investigation in accordance with the Disciplinary Procedure is appropriate in:

The discussion should consider any potential misconduct or gross misconduct on the part of the member of staff. Any investigation may however need to await the outcome of a police investigation or subsequent trial or LA Childrens Social Care enquiry

If further investigation is needed to decide upon disciplinary action, the employer and the LADO and HR 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 in order to ensure objectivity

16. Sharing information for disciplinary purposes

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

If the police or CPS decide not to charge, or decide to administer a caution, or the person is acquitted, the police should pass all relevant information to

the employer without delay.

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

17. Record keeping and monitoring progress

17.1 Record keeping

Employers should keep a clear and comprehensive summary of the case record on a person's confidential personnel file and give a copy to the individual. The record should include details of how the allegation was followed up and resolved, the decisions reached and the action taken. It should be kept at least until the person reaches normal retirement age or for ten years if longer.

The purpose of the record is to meet statutory requirements and to enable accurate information to be given in response to any future request for a reference if the person has moved on. It will provide clarification where a future DBS request reveals non convicted information, and will help to prevent unnecessary reinvestigation if an allegation re surfaces after a period of time. In this sense it may serve as a protector to the individual themselves, as well as in cases where substantiated allegations need to be known about to safeguard future children.

18. Monitoring progress

The LADO should monitor and record the progress of each case, either fortnightly or monthly depending on its complexity. This could be by way of review strategy meetings / discussions / initial evaluations or direct liaison with the police, LA children's social care, or employer, as appropriate. Where there is undue delay, the LADO should record the reasons.

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 LSCB to monitor and evaluate the effectiveness of the procedures for managing allegations and provide statistical information to the Department for Education (DfE) if required and the LSCB.

If a police investigation is to be conducted, the police should regularly review its progress with the LADO. Dates for further reviews should also be agreed, depending on the complexity of the investigation.

19. Unsubstantiated and false allegations

Where it is concluded that there is insufficient evidence to substantiate an allegation, the Chair of the strategy meeting / discussion or initial evaluation record this in the notes of the meeting and circulate following the meeting.

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

If it is established that an allegation has been deliberately invented, the police should be asked by the LADO to consider what action may be appropriate.

20. Substantiated allegations and referral to the DBS

20.1 Substantiated allegations

The **Disclosure and Barring Service (DBS)** was established under the Protection of Freedoms Act 2012 and merges the functions previously carried out by the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA). The relevant legislation is set out in the **Protection of Freedoms Act 2012**.

If an allegation is substantiated and the person is dismissed or the employer ceases to use the person's service or the person resigns or otherwise ceases to provide his/her services, there is likely to be a legal duty to refer the case to the DBS. The LADO should discuss with the employer whether a referral should be made to the Disclosure and Barring Service (DBS).

If a referral is to be made; it should normally be submitted within one month of the allegation being substantiated.

20.2 Bodies with a legal duty to refer

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

- Regulated activity suppliers (employers and volunteer managers);
- Personnel suppliers;
- Groups with a power to refer.

20.3 Bodies with the power to refer

The following groups have a **power to refer** information to the DBS:

- Local authorities (safeguarding role);
- Health and Social care (HSC) trusts (NI);
- Education and Library Boards;
- Keepers of registers e.g. General Medical Council, Nursing and Midwifery Council;
- Supervisory authorities e.g. Care Quality Commission, Ofsted.

If the person is being referred to the DBS is a teacher in England they should also be referred to the **National College for Teaching and**

Leadership. This is part of the Department for Education, responsible for the regulation of teachers in respect of serious misconduct.

21. Learning lessons

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

22. Procedures in specific organisations

It is recognised that many organisations will have their own procedures in place, some of which may need to take into account particular regulations and guidance (e.g. schools and registered child care providers). Where organisations do have specific procedures, they should be compatible with these procedures and additionally provide the contact details for:

- The designated senior manager to whom all allegations should be reported;
- The person to whom all allegations should be reported in the absence of the designated senior manager or where that person is the subject of the allegation;
- The LADO.

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