



# Managing Allegations Against Staff Policy

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## **Allegations Against Staff or Volunteers**

### **SCOPE OF THIS CHAPTER**

This chapter provides information about dealing with allegations against staff and volunteers who have contact with children and young people in their work or activities. They are addressed to employers and organisations responsible for providing services to children, young people and adults who are parents or carers. It also takes into account the requirements laid out in the Safeguarding Vulnerable Groups Act 2006 and the Protection of Freedoms Act 2012.

### **Contents**

- 1. Introduction and Criteria**
- 2. Roles and Responsibilities**
- 3. General Considerations Relating to Allegations Against Staff**
- 4. Initial Response to an Allegation or Concern**
- 5. Disciplinary Process**
- 6. Record Keeping and Monitoring Progress**
- 7. Unsubstantiated and False Allegations**
- 8. Substantiated Allegations and Referral to the DBS**
- 9. Learning Lessons**
- 10. Procedures in Specific Organisations**

## **1. Introduction and Criteria**

All allegations of Abuse of children by those who work with children must be taken seriously. Allegations against any person who works with children, whether in a paid or unpaid capacity, cover a wide range of circumstances.

This procedure should be applied when there is such an allegation or concern that a person who works with children, has:

- Behaved in a way that has harmed a child, or may have harmed a child;
- Possibly committed a criminal offence against or related to a child;
- Behaved towards a child or children in a way that indicates he or she 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.

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 (see ss16-19 Sexual Offences Act 2003);
- '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.

If concerns arise about the person's behaviour to her/his own children, the police and/or children's social care must consider informing the employer / organisation in order to assess whether there may be implications for children with whom the person has contact at work / in the organisation, in which case this procedure will apply.

Allegations of historical abuse should be responded to in the same way as contemporary concerns. In such cases, it is important to find out whether the person against whom the allegation is made is still working with children and if so, to inform the person's current employer or voluntary organisation or refer their family for assessment.

All references in this document to ' staff or members of staff' should be interpreted as meaning all paid or unpaid 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.

At Phoenix Park & Sevenhills Academy we recognise the possibility that adults working in the school may harm children, including governors, volunteers, supply teachers and agency staff. Any concerns about the conduct of other adults in the school should be taken to the headteacher without delay (or where that is not possible, to the Designated Safeguarding Lead); any concerns about the headteacher should go to the Chair of Governors who can be contacted by phone or email, please contact reception.

## **2. Roles and Responsibilities**

Local authorities should put in place arrangements to provide advice and guidance 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.

Aims:

- To ensure safety and well-being for all members of the school community
- For all staff to be aware of the process of how to report any allegations
- For allegations to be dealt with in a fair and consistent way to manage and minimise stress inherent in the allegations process.

How concerns arise:

- Concerns usually arise in one of three ways:
- A direct allegation by a student or third party (for example, a parent)
- An observation by a member of staff that the behaviour of a colleague is inappropriate or potentially or actually abusive
- A known incident outside of school which did not involve children but could have an impact on their suitability to work with children, for example – Domestic Abuse.

**Guidance:**

The guidance in KCSIE (Part Four) should be followed where it is alleged that anyone working in the school or college that provides education for children under 18 years of age, including supply teachers and volunteers 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 may 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.

**Process:**

- The procedure for dealing with all allegations to be applied with common sense and judgement
- The Headteacher should be notified and has a duty to report the allegation to LADO (Local Authority Designated Officer) **within one working day**. Considerations will include the nature, content and context of the allegation and agree a course of action.
- If there are concerns about the Headteacher then the Chair of Governors should be notified.
- In response to an allegation all other options should be considered before suspending a member of staff: suspension is not the default option and should only be actioned if there is no reasonable alternative.
- The management of the allegation should provide effective protection for the student and at the same time support the person who is the subject of the allegation.

The police and/or Social Care/ LADO will be contacted as appropriate.

- The Headteacher/case manager will meet with the member of staff to inform them of the allegation and give an explanation of the likely course of action, unless there is an objection by the Social Care or the police. The circumstances of a case may warrant a person being suspended from contact with children at the school or college or an alternative arrangement may be put in place until the allegation or concern is resolved.
- If no further action is to be taken the decision and justification for it should be recorded by both the case manager and LADO. Consideration should be given what action should follow both in respect of the individual and those who made the initial allegation.
- Details of allegations that are found to have been malicious will be removed from personal records.

**Allegations where police or LADO investigation is not necessary:**

If the allegation is such that a criminal and/or child protection enquiries are not necessary or the strategy discussion or initial evaluation decides that this is not the case, the Headteacher/ Chair of Governors will discuss the next steps with the LADO.

Deciding on the nature and circumstances of the allegation and the evidence/information available the school may decide that:

- No further action is needed
- Professional advice is offered
- An informal warning is needed
- Formal disciplinary action which could lead to dismissal or formal warning

**Allegations where police or LADO investigation is necessary**

The police or Crown Prosecution Service should inform the school and LADO immediately:

- If it is decided to close an investigation without arrest or charge
- If it is decided not to prosecute after the person has been charged
- When a criminal investigation and any subsequent trial is complete

The LADO and Headteacher/Chair of Governors will discuss whether any further action is necessary.

#### Referral to DFE:

If the accused member of staff resigns or ceases to provide his or her services to the school, the school will consult its HR Manager to establish whether a DCSF for barring is required. If this is appropriate the report should be made within one month.

Local authorities should put in place arrangements to provide advice and guidance 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.

Each North East Lincolnshire SCB (NELSCB) member organisation should identify a named senior officer with overall responsibility for:

- Ensuring that the organisation deals with allegations in accordance with this NELSCB procedure;
- Resolving any inter-agency issues;
- Liaising with the NELSCB on the subject.

The NEL local authority have assigned Local Authority Designated Officer (LADO) 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 GMC etc.

### **3. General Considerations Relating to Allegations Against Staff**

#### **Persons to be notified**

The employer must inform the local authority designated officer (LADO) within one working day when an allegation is made and prior to any further investigation taking place.

The LADO will advise the employer whether or not informing the parents of the child/ren involved will impede the disciplinary or investigative processes. Acting on this advice, 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).

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.

The employer should seek advice from the LADO, the police and / or Children's social care about how much information should be disclosed to the accused person.

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.

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 strategy meeting/discussion.

#### **Disqualification under the Child Care Act 2006**

Children's social care should inform Ofsted of all allegations made against a foster carer, prospective adopter, or member of staff in a residential child care facility.

#### **Confidentiality**

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, manage related disciplinary or suitability 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.

Section 13 of the Education Act 2011 introduced 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.

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).

Such 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:

- a. The person who is the subject of the allegation; and
- b. The victim of the offence to which the allegation relates.

There is a right of appeal to the Crown Court.

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.

There is a new offence of publishing any information in breach of these restrictions. Publication includes any communication, in whatever form, which is addressed to the public at large or any section of the public.

It is a defence to show that the person publishing was not aware of the allegation having been made as set out in section 141H 'Defences' of the Act.

### **Support**

The organisation, 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 the agencies should take place in order to ensure that the child's needs are addressed.

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.

Employers have a duty of care to their employees. They should act to manage and minimise the stress inherent in the allegations process. Support for the individual is vital in fulfilling this duty. NELSCB have produced a leaflet Safeguarding Children Dealing with Allegations Supporting Staff and Volunteers and a leaflet Safeguarding Children Dealing with Allegations Supporting Foster Carers.

## **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 is at risk of 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.

If a strategy meeting / discussion is to be held or if Children's social care or the police are to make enquiries, the LADO should canvass their views on suspension and inform the employer. Only the employer, however, has the power to suspend an accused employee and they cannot be required to do so by a local authority or police.

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.

### **Resignations and 'compromise 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.

'Compromise 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). 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.

### **Organised 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 Organised and Complex Abuse Procedure.

### **Whistle-blowing**

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.

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.

### **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 target timescales provided in the flowchart at the end of this chapter are realistic in most cases, but some cases will take longer because of their specific nature or complexity. It is expected that 80 per cent of cases should be resolved within one month, 90 per cent within three months, and all but the most exceptional cases should be completed within twelve months.

### **4. 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). 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

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 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.

They should:

- Make 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;
- Sign and date the written record;
- Immediately report the matter to the designated senior manager, 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.

NELSCB have produced a leaflet Safeguarding Children Dealing with Allegations and a leaflet Safeguarding Children Dealing with Allegations Of Child Abuse Against Teachers & Other Staff.

## 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.

They should:

- Obtain written details of the concern / allegation, signed and dated by the person receiving the information (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.

The designated senior manager should report the allegation to the LADO and discuss the decision in relation to the agreed threshold criteria in Section 1, Introduction and Criteria within one working day. 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 potential disciplinary matter.

NELSCB have produced a reporting form Allegations/Concerns Against Staff which should be completed when making referral into the Allegations Management process.

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

If a police officer receives an allegation, they should, without delay, report it to the designated detective sergeant within the Protection of Vulnerable Persons team. The detective sergeant should then immediately inform the LADO.

Similarly an allegation made to Children's social care should be immediately reported to the LADO.

#### Initial consideration by the designated senior manager and the LADO

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.

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. Care should 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 suffering or is likely to suffer significant harm, the LADO should refer to NEL children's social care and ask them to convene an immediate strategy meeting / discussion:

- If a child is not believed to have suffered, or to be likely to suffer Significant Harm but a police investigation will continue, the Local Authority Designated Officer (ADO) should conduct this discussion with the police, the designated senior manager and any other agencies involved to evaluate the allegation and decide how it should be dealt with;
- This Evaluation discussion should take place within one working day and must consider how to take matters forward in a criminal process parallel with a disciplinary process or whether any disciplinary action will need to await the completion of the police enquiries and/or prosecution. The progress should be reviewed by the police no later than four weeks after the initial evaluation meeting and thereafter at fortnightly or monthly intervals.

### Strategy Discussion/Meeting

Wherever possible, a Strategy Discussion/Meeting should take the form of a meeting. However, on occasions a telephone discussion may be justified. The following is a list of possible participants:

- LADO;
- Social care manager to chair (if a strategy meeting);
- 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;
- Legal adviser where appropriate;

- 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 strategy meeting / discussion should:

- Decide whether there should be a Section 47 Enquiry and / or police investigation and consider the implications;
- 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. section 93, Education and Inspections Act 2006 in respect of teachers and authorised staff);
- 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.

The strategy 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 strategy meetings / discussions.

A final strategy 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.

The strategy meeting / discussion should take in to 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 sufficient evidence to disprove the allegation and there has been a deliberate act to deceive;
4. Unsubstantiated: this is not the same as a false allegation. It means that there is insufficient evidence to either prove or disprove the allegation; the term therefore does not imply guilt or innocence.

#### **Allegations 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.

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.

#### Guidance on allegations against foster carers

Foster carers and their families are subject to investigation on the same basis as anyone else if it is alleged that they may have abused children or young people. Yet, in other respects, they are in a unique position. The regulatory framework requires the careful scrutiny of foster carers from application through to arrangements for reviewing and terminating their approval to foster. As a result, much of their family life is lived in the public arena, open to social workers from Children's Social Care and the fostering service provider, as well as the families of looked after children and other members of the community.

They provide care for Looked After Children 24 hours a day, seven days a week in their own homes, but the vast majority of carers do not have an employment relationship with their fostering service provider. Although children and young people may be abused in foster families, most allegations have little or no foundation when they are closely investigated. Well established placements may be disrupted with serious consequences for the children and young people concerned. Foster carers and their families are subject to enormous stress during enquiries into an allegation, and are often isolated. Family relationships and almost every other aspect of life are severely affected.

There may be up to 3 strands in the consideration of an allegation against a foster carer. Depending on the circumstances, it may be necessary for these strands to operate in parallel. For example a fostering service may decide to suspend a foster carer from receiving

further placements while a police investigation and/or enquiry by children's services is taking place and pending a review of the foster carers approval. Where there is an allegation the fostering services procedure must be operated concerning a review of a foster carers suitability to foster and the decision making processes of the fostering services panel and decision maker according to the fostering regulations 2002.

Should concerns about fostered children and young people, an immediate discussion between the Local Authority Designated Officer (LADO) and the manager of the fostering service will enable them to exchange information about the nature of the concerns; how and why they have arisen; information about the foster placement and what immediate actions need to be taken.

Following consultation with the police and Children's Services, the LADO may notify the fostering service manager that the allegation is a matter to be determined by the fostering service provider's procedures.

The LADO, in liaison with the police, Children's Social Care and the fostering service, should decide together when foster carers should be told about the allegation if they are not otherwise aware of it, bearing in mind that foster carers should normally be told about the allegation at the earliest opportunity.

Depending on the nature of the allegation, Children's Social Care may initiate strategy discussions along with the police to determine whether a section 47 or concurrent police investigation is necessary. In addition to the manager of the fostering service (or someone they delegate), the following should also be invited to the strategy discussion:

- Ofsted;
- The employer's HR representative should be invited if the foster carer is an employee of the fostering service provider;
- Any independent agency commissioned to undertake the investigation.

The discussion will need to consider the following issues:

- Significant information about the child or young person concerned, including previous placements, and information about any previous allegations or complaints made by the child or young person;
- Significant information about the foster carers, including the terms of their approval their record as carers and any past allegations/serious concerns relating to them or members of their families;

- Whether anything needs to be done immediately to safeguard the welfare of any other children and young people in the foster carer's household;
- Whether anything needs to be done to safeguard the welfare of other children and young people that the foster carer or relevant member of their family has contact with e.g. as child minders, youth workers etc.
- What action, if any, needs to take place in relation to other children previously placed in the foster home;
- Decisions about information to be given to key people e.g. foster carers, adult members of the foster family, parents/people with parental responsibility, other local authorities who have children in placement/may have had children in placement, out-of-hours services;
- What information is to be given to fostered children and by whom, what support/counselling will be provided for them, and what will be recorded;
- Decisions by the fostering service provider regarding any temporary changes concerning the foster carer's terms of approval, pending the completion of the investigation;
- Arrangements that could be made if someone were to move out of the foster home in order to safeguard a placement;
- The time-scale for interviewing key adults and children;
- Clarification of the role of the supervising worker and the fostering service's ongoing support to the foster carer and their family;
- Whether the appointment of an advocate for each child or young person in the family, including the children of foster carers is necessary or not;
- The management of any media implications.

The foster carer's supervising social worker, or the manager of the fostering service provider, should normally be responsible for communication with the foster carer/adult member of the carer's family about the decisions of the strategy discussion (unless there are restrictions imposed by the police). Whoever is delegated by the strategy discussion to communicate with the foster carer, they should ensure that foster carers:

- Are given a copy of the local authority's safeguarding children procedure;
- Have access to legal advice and representation;
- Understand the process of the enquiry and why it is taking place;
- Know when, where and by whom interviews will be conducted;
- Are assisted in communicating with the investigating agencies;
- Are informed verbally, and in writing on a regular basis of the progress of the investigation;
- Are informed of the independent support that can be provided;

- Are informed about the financial arrangements the fostering service provider will make in relation to allowances/fees if fostered children are removed or the carer is temporarily suspended from taking further placements.

They must also ensure that foster carers:

- Know the reasons for the removal of children and young people, if applicable;
- Understand the current status of their approval to foster;
- Are informed verbally, and in writing on a regular basis of the progress of the investigation.

Foster carers must have access to immediate information and advice from an independent source if there is an allegation against them, or the fostering service has informed them that they have a serious concern about their practice or standards of care.

## **5. Disciplinary Process**

Disciplinary or suitability process and investigations

The LADO and the designated senior manager should discuss whether disciplinary action is appropriate in all cases where:

- It is clear at the outset or decided by a strategy meeting / discussion that a police investigation or LA children's social care enquiry is not necessary; or
- The employer or 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.

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 Children's social care;
- The result of any investigation or trial;
- The different standard of proof in disciplinary and criminal proceedings.

In the case of 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 Section 8, Substantiated Allegations and Referral to the DBS.

If formal disciplinary action is not required, the employer should institute appropriate action within three working days. If a disciplinary hearing is required, and further investigation is not required, it should be held within 15 working days.

If further investigation is needed to decide upon disciplinary action, the employer 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 in order to ensure objectivity. The investigation should not be conducted by a relative or friend of the member of staff.

The aim of an investigation is to obtain, as far as possible, a fair, balanced and accurate record in order to consider the appropriateness of disciplinary action and / or the individual's suitability to work with children. Its purpose is not to prove or disprove the allegation.

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 LA 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 decide, within two working days, whether a disciplinary hearing is needed. If a hearing is required, it should be held within 15 working days.

#### Sharing information for disciplinary purposes

Wherever possible, police and 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.

## **6. Record Keeping and Monitoring Progress**

### 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 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.

Details of allegations that are found to be malicious should be removed from personnel records. For Education services see Keeping Children Safe in Education: Statutory Guidance for Schools and Colleges, DfE.

### 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, Children's social care, or employer, as

appropriate. Where the target timescales cannot be met, 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 NELSCB to monitor and evaluate the effectiveness of the procedures for managing allegations and provide statistical information to the Department for Education (DfE) as required.

If a police investigation is to be conducted, the police should set a date for reviewing its progress and consulting the CPS about continuing or closing the investigation or charging the individual. Wherever possible, this should be no later than four weeks after the strategy meeting / discussion / initial evaluation. Dates for further reviews should also be agreed, either fortnightly or monthly depending on the complexity of the investigation.

## **7. Unsubstantiated and False Allegations**

Where it is concluded that there is insufficient evidence to substantiate an allegation, information should be shared with the designated senior manager of the employer to enable them to consider what further action, if any, should be taken.

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 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 to consider what action may be appropriate.

## **8. Substantiated Allegations and Referral to the DBS**

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, 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 be submitted within one month of the allegation being substantiated.

#### 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.

#### 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 being referred to the DBS is a teacher in England they should also be referred to the National College for Teaching and Leadership.

## **9. 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.

## **10. 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.

### **Further Information**

Keeping Children Safe in Education: Statutory Guidance for Schools and Colleges, Dfe.

## **North East Lincolnshire Local Safeguarding Board**

### **Safeguarding Children: Dealing With Allegations**

This leaflet provides a brief guide to the process that should be followed, but if faced with an allegation against any employee, volunteer or professional working with/providing services for children, you are strongly advised to consult the LADO at the earliest opportunity.

**Local Authority's Designated Officers are  
contactable via:**

**Tel: 01472 326118**

#### **Introduction**

This leaflet is about managing cases of allegations of abuse against a person who works with children in any setting. All allegations of abuse of children by a professional, staff member, foster carer or volunteer should be taken seriously and treated in accordance with the procedures set out in the LSCB Guidelines and Procedures which can be found at [www.nelsafeguardingchildrenboard.co.uk](http://www.nelsafeguardingchildrenboard.co.uk)

The scope of this leaflet covers a wider range of allegations than those in which there is reasonable cause to believe a child is suffering, or is likely to suffer, significant harm. This leaflet should be used for guidance in respect of all cases in which it is alleged that a person who works with children has;

- Behaved in a way that has harmed a child, or may have harmed a child;
- Possibly committed a criminal offence against or related to a child; or,
- Behaved towards a child or children in a way that indicates s/he would pose a risk of harm to children.



## Procedure

### **STEP 1**

Somebody receives information that an allegation has been made against an employee, volunteer or professional working with/providing services for children, in relation to harm of a child, a criminal act or behaviour that would have implications for working with children.

### **STEP 2**

The person receiving the allegation should immediately notify his/her line manager or the designated child protection person in their establishment, organisation, group etc. or their senior. That designated person then notifies the Local Area Designated Officer (LADO) as soon as possible (within 1 working day) and completes a referral form.

If it is an extremely serious allegation (i.e. current injury, risk of losing forensic evidence, imminent danger to child/public/staff, crime ongoing etc.) first contact the Police and then the LADO (or the Multi Agency Safeguarding Hub/Out of Hours Team).

### **STEP 3**

In all but the most serious cases the LADO and the manager will initially consider:

- Whether or not it needs referring to the police
- Whether it needs a Strategy Discussion and/or an allegations management meeting
- Whether Human Resources need to be involved
- Whether any immediate action needs taking to make the child, other children and the organisation safe.

### **STEP 4**

The LADO will consult with the police and Children's Services, and the employer or line manager of the accused person if that is different to the person referring it.

### **STEP 5**

The LADO will then convene an allegations management meeting if required, or record the decisions and actions agreed with the line manager and coordinate the next steps.

### **STEP 6**

The LADO will coordinate and review future action as necessary and ensure all parties required are involved, informed and record information as required.

## **Key Points**

1. If the allegation is clearly false (e.g. if the accused person has never met the child or was not on duty) it should still be reported to the LADO to decide if the alleged victim has other underlying needs.
2. If the allegation is malicious it should still be reported to the LADO with regard to whether the police need to take action regarding the person making the allegation.
3. Regardless of the nature of the allegation and regardless of who receives the allegation it **MUST** be reported to the LADO regardless of it appearing to be of little importance or potentially very serious.
4. The complaints process is separate to the allegations process and just because a person does not wish to make a complaint does not mean that there is no allegation.

# North East Lincolnshire Local Safeguarding Board

## Safeguarding Children: Dealing With Allegations of Child Abuse against Teachers & Other Staff

Experience shows that children can be subjected to abuse by those who are supposed to be caring for them. It is essential that children do not feel inhibited from reporting abuse against them by foster carers or others. Children have a right to be treated properly and any incident where a child or adult feels that a trusted adult has crossed the boundary of acceptable behaviour should be reported.

All individuals who work with children must ensure that the environment they work or live in encourages children to make truthful reports of unacceptable behaviour.

**This leaflet provides a brief guide to the process that should be followed, but if faces with an allegation against a staff member or volunteer, you are strongly advised to consult the LADO at the earliest opportunity.**

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**Local Authority's Designated Officers are contactable via:**

**Tel: 01472 326118**

### Introduction

All allegations should be reported to the Head teacher immediately unless that person is the subject of the allegation in which case it should be reported to the Chair of Governors.

Heads/Chairs, you will have a key role to play should an allegation be made, from any source, that a teacher, staff member or volunteer 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; or,
- behaved towards a child or children in a way that indicates s/he would pose a risk of harm to children.

### Initial Action

The person receiving the initial allegation should not promise total confidentiality to the child/ren who make allegations. The child/ren should be advised that the matter will be reported on to staff who can help. A written record of information should be made.

Heads/Chairs should obtain and countersign the record made by the person who first received the allegation, and then consult the Local Authority Designated Officer (LADO). The subject of the allegation should not be informed unless this has been agreed with the LADO as the Police or People & Communities Directorate may need to be consulted.

Details of the case should not be discussed with other governors or staff, as this might prejudice future criminal or disciplinary process. You should only share information on a need to know basis.

### **Out of Hours**

If the Head/Chair is told about a serious allegation outside normal working hours, and the LADO is not available, they should contact the Out of Hours Team and inform the LADO on the next working day.

### **Gathering Information**

Subject to the advice from the LADO, Heads/Chairs should obtain information about the date and location of the alleged incident and the names of any witnesses. Heads/Chairs can clarify any points they are unsure about, but should not interview the child, any possible witnesses (including staff members/volunteers) or ask them to write an account of what happened. The "Allegations Against Staff Reporting Form" has been designed to assist Heads/Chairs to collect and record information regarding allegations. It is the job of the Police and People & Communities Directorate to investigate an allegation of child abuse. Schools should not conduct their own investigations. The school's Designated Person or deputy should be able to assist with details of the child and whether s/he made previous allegations.

### **Strategy Meeting/Allegations Management Meeting**

Unless the allegation is demonstrably false, a multi-agency strategy meeting/discussion should take place, either by phone or meeting, in order to share relevant information and determine whether an investigation needs to be undertaken, and if so by whom. Heads/Chairs are likely to be invited to take part, and the LADO can advise about what to expect and what information Heads/Chairs may be able to provide.

### **Suspension**

Suspension should be considered in cases where:

- there is cause to suspect a child is at risk of significant harm, and/or
- a police investigation is warranted, and/or
- the allegation is so serious, it might be grounds for dismissal

### **Suspension ct'd**

Suspension is normally delegated to the Head teacher or a group of governors (not the full governing body) where the allegation is made against the Head teacher, so as to avoid the risk of prejudicing any future proceedings. The Head teacher or Chair can decide whether or not to suspend if delay would be seriously detrimental to the school, pupil, parents or staff.

Suspension should not, however, be an automatic response and alternatives may be appropriate.

### **Timescales**

Every effort should be made to resolve matters at the earliest opportunity and cases will be reviewed at least monthly.

### **Confidentiality**

Every effort should be made to maintain confidentiality and guard against unwanted publicity.

### **Support**

Staff who are the subject of an allegation will benefit from support and this should be identified at the earliest opportunity. This could be through Occupational Health or Employee Welfare Arrangements etc.

### **Record Keeping**

It is important that employers keep a summary of any allegations made, details of how the allegation was followed up and resolved, and details of any action taken and decisions reached, on a person's confidential personnel file. The summary should be made available to the staff member.

### **Further Guidance**

More detailed guidance can be found on the North East Lincolnshire Local Safeguarding Children Board website.  
[www.nelsafeguardingchildrenboard.co.uk](http://www.nelsafeguardingchildrenboard.co.uk)



