



CHESHIRE WEST AND CHESTER LOCAL SAFEGUARDING CHILDREN BOARD

MARCH 2019

PROCEDURE FOR MANAGING CASES OF ALLEGATIONS AGAINST ADULTS WHO WORK WITH CHILDREN (INCLUDING FOSTER CARERS)

1.1 These procedures are based on the Working Together to Safeguard Children framework for dealing with allegations made against a person who works with or on behalf of children and should be applied when there is an allegation that a person who works or volunteers with a child 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

1.2 These procedures may also be used where concerns arise about:

- A person's behaviour in their personal life which may impact upon the safety of children to whom they owe a duty of care
- A person's behaviour with regards to his/her own children
- The behaviour in the private or community life of a partner, member of the family or other household member

1.3 If an allegation relating to a child is made about a person who undertakes paid or unpaid care of vulnerable adults, consideration should be given to the possible need to alert those who manage her/him in that role. These procedures can also be applied if a complaint or an allegation is made against a person in relation to her/his work with adult service users, which causes concern about the welfare of an adult service user's children.

1.4 Compliance with these procedures should help ensure that allegations of abuse are dealt with expeditiously and are consistent with a thorough and fair process.

1.5 The LSCB and Local Authority ensure a **LOCAL AUTHORITY DESIGNATED OFFICER (LADO)** is identified who will:

- Be involved in the management and oversight of individual cases
- Provide advice and guidance to employers and voluntary

An allegation may be said to be information which comes to light suggesting a child may have been, or could be, hurt or harmed by an adult to whom they were owed a duty of care.

In Cheshire West the LADO operates on a rota basis comprising Child Protection Chairs within the Safeguarding & Quality Assurance Unit

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

1. Recognising and Responding to an Allegation

2.1 Allegations may arise from a number of sources including:

- A child or an adult
- A parent/carer
- A member of the public
- A professional body
- Police/Children's Services

2.2 Agencies covered by these procedures should have in place their own policies, procedures and guidance relating to the conduct of their employees and they should be used to ensure compliance with these procedures

2.3 There are different procedures for responding to allegations and complaints. Care should be taken to ensure that the correct procedures are followed. As a general guide allegations refer to information or concerns which suggest a child or children have been avoidably hurt or harmed by an adult who owed them a duty of care (sometimes described as a person in a position of trust).

3. What to do if an Allegation is Made by a Child or Young Person

3.1 The person to whom the allegation is reported must:

- Treat the matter seriously
- Ensure that, where necessary, the child/young person received appropriate medical attention
- Make a written record of the information using the Child's/Parents' own words, including when the alleged incident took place, who was present; and what happened
- Sign and date written record
- Report the matter immediately to their Senior Manager, or deputy in his/her absence. Where the Senior Manager is the subject of the allegation a referral should be made directly to the LADO who can then advise about the best way to proceed.
- Confidentiality must be maintained at all times

4. Initial Action by the Senior Manager

4.1 The Senior Manager will:

This document can be used as a template for any organisation/agency which works with or on behalf of children.

This means that the matter must not be discussed or shared with anyone other than the Senior Manager/LADO to whom it is reported

- Obtain brief statements signed and dated by the person receiving the allegation
- Countersign and date the written details
- Record any other information and names of potential witnesses
- Establish a chronology of significant events
- Consider any information already known about those involved
- Discreetly check any incident or log books
- On the basis of these factors, make a professional judgement, and record the reason for any subsequent action taken.

4.2 If the allegation meets, or appears to meet, any of the criteria in paragraph 1.1 above or if unsure about the action to take the Senior Manager should complete the consultation form to LADO within one working day.

4.3 If an allegation requiring immediate attention is received *outside of normal hours* the Senior Manager should consult immediately with the **Emergency Duty Team** or **Local Police**. They must ensure they inform the LADO the next working day.

5. Responding to an Allegation made to the Police or Social Care

5.1 If the police receive an allegation regardless of whether a crime appears to have been committed, the matter should be immediately reported to their Designated Officer who will inform the LADO on the day or in the case of out of hours, the next working day (unless 4.3 above applies).

5.2 If Children's Social Care receives an allegation regardless of whether it reaches the Section 47 threshold, the matter should be reported to the LADO within **1 working day**.

5.3 Where the LADO receives information from the Police or Social Care which relates to an allegation they should immediately contact the individuals Senior Manager/HR Manager, unless they have been requested by the police not to do so.

6. Action on receipt of a consultation form by Designated Officer (LADO)

6.1 The LADO and Senior Manager will agree if a strategy meeting should take place. A decision will be made taking in the following points as part of this consideration and the discussion will centre upon whether there is a need for:

- A police investigation because a crime has or may have

See the [Allegations Management](#) page of the LSCB website for the Consultation Form

Outside of Office Hours Telephone:
EDT- 01244 977 277
Cheshire Police- 0845 458 4000

This officer will be from the Cheshire Police Protection Unit.
Referral 01606 364294
Email:
western.ppu@cheshire.pnn.police.uk

been committed

- Enquiries and assessment by Social Care to determine if services or emergency actions are required
- There will also need to be consideration as to whether the subject of the allegation needs to be suspended from any contact with children. The decision to suspend will rest with the employer.
- If the person who has had an allegation made against them is a foster carer, the needs of other children in placement as well as the child to whom the allegation relates, require careful consideration with other relevant Senior Managers, and in collaboration with all agencies a way forward determined to ensure the safety of all children is ensured.

6.2 Agreement will be reached between the LADO and the Senior Manager which will include:

- A plan of action
- Agreement about informing parents if they are not involved
- How and when to inform the subject of the allegations
- Means by which LADO and Senior Manager will keep each other informed of developments.

6.3 If there is evidence that a child may be suffering significant harm a referral should be made to i-ART to start Child Protection (CP) procedures.

6.4 If there is evidence a crime has been committed a referral should be made to Cheshire Police.

6.5 Where there is disagreement about the course of action to be followed, the LADO will make the final decision and the referring agency can make a complaint via the Complaints Procedure.

6.6 Both the LADO and Senior Manager must keep and maintain appropriate records and ensure there is a chronology of discussions, decision and actions taken.

6.7 Strategy meeting should take the form of a face to face meeting with a dedicated minute taker wherever possible.

6.8 When a strategy meeting is convened to consider an allegation against an adult who works with or on behalf of children, care should be taken to ensure the relevant people are invited to attend (see Appendix 1).

6.9 There is a need to be clear as to the purpose and function of strategy meetings with regard to the management of allegations.

6.10 Where there is a decision not to pursue any criminal or social care enquiries, there should be a clear and purposeful record of the discussion as to why the behaviour of the individual did not cause concern.

7. Recording of Strategy Meetings or Initial Evaluation Discussions

7.1 The record of these discussions is an important working document and one which may at some time need to be shared with the individual concerned. Care should be taken to ensure that any record contains all the essential facts:

- Summary of discussions which accurately reflect the contributions made
- The decisions reached, with information outlining the reasons for these decisions and
- A translation of these decisions into an action plan, which can inform any disciplinary action which may be taken

7.2 The recipient agencies and professionals should retain copies of these notes in accordance with their own record retention policies.

7.3 Should any decisions be subject to appeal, in some situations, the individual concerned will have a right to have access to any documents which have a bearing on his/her case. As such, care should be taken when producing minutes of strategy or initial evaluation meetings, to ensure that any personal details relating to a child or their family can be easily removed.

7.4 The LADO will regularly monitor the progress of cases through a regular review of strategy meetings and/or by either liaising with the Police and/or Children's Social Care, colleagues or the employer as appropriate.

7.5 A final strategy meeting should be held at the end of enquiries to ensure that all tasks have been completed and where appropriate, an action plan agreed for learning lessons to inform future practice.

8. Resignations and Compromise Agreements

8.1 The fact that a person tenders his or her resignation or ceases to provide their services must not prevent an allegation from being followed up in accordance with these procedures and a conclusion reached.

If a person tenders his or her resignation before the conclusion of an investigation an employer will make a

If the employer fails to make a referral the LADO/Safeguarding Unit will make a referral to the DBS.

referral to the Disclosure and Barring Service (DBS).

- 8.2 A so called “compromise agreement” by which a person agrees to resign, the employer agrees not to pursue disciplinary action and both agree a form of words to be used in any future reference **must not** be used in situations which are relevant to these procedures. In any event, such an agreement will not prevent a thorough police investigation where appropriate.

Where a compromise agreement is considered, a strategy meeting needs to be called and safeguarding elements of any agreement considered.

If a compromise agreement is made the LADO will report this matter to:

- The LSCB
- OFSTED
- Any Other regulatory body
- Disclosure and Barring Service (DBS)
- The Secretary of State, Department of Education (DfE)

- 8.3 Every effort should be taken to ensure the individual concerned is given an opportunity to answer the allegation and make representations. The investigations should continue to a conclusion, on the basis of any supporting evidence, even if the person refuses to cooperate or tenders their resignation.

9. Disciplinary Process

- 9.1 The LADO and the Senior Manager should discuss and agree what action is appropriate in all cases where it is clear at the outset or decided by a strategy meeting that the investigations by the Police or enquiries by Children’s Social Care are not necessary.
- 9.2 Where the employer and LADO is informed by the police or the Crown Prosecution Service (CPS) that a criminal investigation and any subsequent trial is complete or that the investigation is to be closed without charge or a prosecution discontinued, a strategy meeting should be reconvened and there must be discussion between the LADO and the Senior Manager/HR Manager as to the next course of action. This should centre on the threshold of ‘balance of probabilities’ rather than the legal threshold of ‘beyond reasonable doubt.’
- 9.3 A lack of criminal investigation, charge or conviction is not an adequate defence for the adult who is the subject of a

disciplinary hearing. There may be elements of an allegation which suggest a breach of expected or appropriate standards of behaviour or propriety even when no criminal activity is identified. A disciplinary panel, under these circumstances, is required to consider whether the person can be trusted to work with children in their present role if their employment continues.

- 9.4 The discussion between the LADO and the employer should consider any potential misconduct or gross misconduct on the part of the staff member and take into account information provided by the Police and/or Children's Social Care and have due regard to the different standard of proof in disciplinary and criminal proceedings.
- 9.5 The options open to the employer range from taking no further action, to summary dismissal or a decision taken not to use the person's services in the future. The nature and circumstances of the allegation and the evidence and information available will determine which option is most appropriate.
- 9.6 Where the initial considerations conclude that the allegation does not involve a possible criminal offence, the matter will be passed to the employer for action who should decide upon appropriate action within **3 working days**.
- 9.7 If it is determined that a disciplinary hearing is required, without the need for a disciplinary investigation, a hearing can be held without further investigation. This must take place within **15 working days**.
- 9.8 Where further investigations are required to determine if disciplinary action should be taken, the LADO will discuss with the employer who should undertake these. In some circumstances it may be appropriate for the disciplinary investigation to be conducted by a person who is independent of the employer to ensure objectivity. In all cases the investigating officer should aim to provide a report within **10 working days**.
- 9.9 On receipt of the report, the employer should decide within **2 working days** whether a disciplinary hearing is needed, if so the hearing should be held within **15 working days**.

10. Sharing Information for Disciplinary Purposes

- 10.1 If the Police or CPS decide not to charge or decide to administer a caution, or the person is acquitted, the Police should pass on all relevant information to the employer and LADO without delay.

10.2 If the person is convicted, the police should inform the employer and LADO immediately to enable the employer to take the appropriate action.

10.3 Individuals should be advised at the earliest opportunity that information may need to be shared with the employer/LADO if concern about risks to children remain and disciplinary action is later required.

11. Record Keeping

11.1 Employers should keep a clear and comprehensive summary of the case record on the person's confidential personnel file and give a copy to the individual.

11.2 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 ten years if longer.

11.3 The record will provide accurate information for any future reference and provide clarification if a future DBS disclosure reveals an allegation that did result in prosecution or conviction. This record will prevent unnecessary re-investigation if the allegation should resurface.

11.4 Each agency needs to have a document retention schedule in line with GDPR. The LADO will maintain a record of substantiated or unsubstantiated for a period of 100 years. Cases are unfounded or malicious after 10 years.

12. Monitoring Progress

12.1 The LADO will keep comprehensive records in order to ensure that each case is being dealt with expeditiously and that there are no undue delays.

12.2 This record will assist monitoring and evaluation of the effectiveness of the procedures and provide statistical information to the DfE as required.

12.3 The Police can consult the CPS at any stage regarding the evidence needed to charge a person, but they should also set target dates for reviewing the progress of the investigation and consulting the CPS about charging, continuing or closing the investigation.

13. Action in Respect of Unsubstantiated Allegations

13.1 Where there is insufficient evidence to substantiate an

allegation the employer should consider what further action, if any, should be taken and parents and the child/young person should be informed in writing as to the reasons why no further action will be taken. The individual against whom the allegations were made should be informed in writing and where necessary reference made to the employer's guidance for safe practice.

14. Action in Respect of Unfounded or Malicious Allegations

14.1 Where an allegation has been determined as unfounded, consideration should be given as to whether the child and his/her family should be referred to Children's Social Care to determine whether the child is in need of services, or may have been the subject of abusive behaviour by someone else.

14.2 If an allegation has been deliberately exaggerated or is seen to be particularly malicious, consideration should be given as to whether the Police should take action against those who made the allegation. The rationale for such a decision must be recorded in the context of would be appropriate or advisable.

15. Referral to the Disclosure and Barring Service (DBS) or Regulatory Body

15.1 If the allegation is substantiated, and on conclusion of the case, the person is dismissed or the employer ceases to use the person's services, or the person resigns or otherwise ceases to provide his/her services, a strategy meeting should be reconvened to decide whether a referral to the Disclosure and Barring Service and/or a regulatory body is required.

A referral should still be considered in cases where an allegation is substantiated, but the employer does not dismiss or cease to use the person's services, or the person resigns or otherwise ceases to provide his/her services.

The employer shall notify the person when a referral to the DBS is made.

15.2 If a referral is appropriate the report should be made within one month of that decision having been made.

15.3 Employers shall notify the LADO/Safeguarding Unit when a referral is made.

If the employer fails to make the referral, the LADO/Safeguarding Unit will make a referral to the Disclosure and Barring Service.

It is the responsibility of the employer to make a referral to the Disclosure and Barring Service.

APPENDIX 1

List of Individuals Who Should be invited to a Strategy Meeting

Allegation against an adult who works with children and young people

Attendance should/can include:

- Designated Officer (LADO)
- Business Support
- Employers and/or Senior Manager
- Relevant child care social worker and his/her manager
- Supervising social worker and his/her manager when an allegation is made against a foster carer.
- Police Public Protection Unit
- Senior representative of the employment agency or voluntary organisation if the member of staff or volunteers has been placed by them, unless it is alleged that they have colluded or failed to respond to previous complaints
- Those responsible for regulation and inspection e.g. OFSTED, when the allegation is against a childminder or owner of a regulated setting
- Human resource personnel, where in post
- A medical practitioner with specialist knowledge where appropriate
- Where a child is placed by or resident in the area of another Local Authority, a representative of the Authority
- Complaints Officer if the concern has arisen from a complaint
- A representative of the legal department of the Local Authority