



# **Allegations of Abuse against Members of Staff and Volunteers**

Written by: **Personnel Committee**

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## **ALLEGATIONS OF ABUSE AGAINST MEMBERS OF STAFF AND VOLUNTEERS**

### **1 INTRODUCTION**

1.1 All children and adults have a fundamental right to be protected from harm.

1.2 The Governors of St Margaret's have a duty to safeguard and promote the welfare of children and create and maintain a safe learning environment (section 175 of the Education Act 2002). Schools should identify where there are child welfare concerns and take action to address them, in partnership with other organisations where appropriate, and in accordance with local inter-agency procedures.

1.3 School staff have a positive role to play in child protection, as their position often allows them to be able to observe outward signs of abuse and changes of behaviour in children.

1.4 Because of their role, however, they are also open to accusations of abuse. Such allegations may be true, but they may also be false, misplaced or malicious.

1.5 To fulfil its commitment to the welfare of children The Federation has a procedure for dealing with allegations of abuse against members of staff and volunteers.

1.6 The procedure aims to ensure that all allegations are dealt with fairly, consistently and quickly and in a way that provides protection for the child, whilst supporting the person who is the subject of the allegation.

1.7 In the event that a member of staff does not wish to report an allegation directly, or they have a general concern about malpractice within The Federation, reference can also be made to the Whistle-Blowing Policy.

1.8 The procedure complies with the framework for managing cases of allegations of abuse against people who work with children, as set out in relevant guidance and in the local inter-agency procedures. See appendix C Further Reference Documents.

1.9 The policy should be read in conjunction with the Whistle-Blowing Policy, Child Protection Policy and our Safe Practice Policy.

### **2 SCOPE**

2.1 The procedure applies to all employees of the school, all agency staff and all adults volunteering in the school.

### **3 GENERAL PRINCIPLES**

3.1 This procedure should be used in respect of all cases in which it is alleged that a member of staff or a volunteer in the school 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 s/he is unsuitable to work with children.

3.2 In addition, the procedure also applies if a concern arises about a member of staff or a volunteer in his/her private life which indicates that they may be unsuitable to work with children, and where concerns arise about the behaviour in the private or community life of a partner, member of the family or other household member.

3.3 It is imperative that everyone who deals with allegations of abuse maintains an open and enquiring mind. Even allegations that appear less serious must be followed up and taken seriously. The procedure aims to provide effective protection for the child and support for the person who is the subject of the allegation.

### **3.4 Responding to an allegation or complaint**

3.4.1 The person who receives information regarding the allegation **will not question the child or investigate the matter any further**. They will:

- treat the matter seriously, avoid asking leading questions and communicate with the child in a manner appropriate to the child's understanding and communication style.
- make a written record of the information, where possible in the child's own words stating when the alleged incident took place, who was present and what was said to have happened. The record must be signed and dated.

3.4.2 The person receiving the information will report the matter **immediately** to the Executive Head, Head of School or, where the allegation involves the Executive Head, to the Chair of Governors. Under no circumstances should this concern or allegation become the subject of gossip and should be strictly confidential. No member of staff should approach parents of children to chat to them about the allegation. That will be the duty of the senior designated manager or deputy designated manager.

**3.4.3 The person to whom the matter is reported will become the *Senior Designated Manager*, until the allegation is resolved.** The Senior Designated Manager will inform the Governing Body of the allegation.

**3.4.4 Initial action by Senior Designated Manager.** The Senior Designated Manager will **not** investigate the matter by interviewing the accused, the child making the allegation or any of the potential witnesses. They will:

- Obtain written details of the allegation, signed and dated by the **person receiving** the allegation or complaint.
- Countersign and date the written details.
- Record any other information about times, dates and location of any incident and the names of any potential witnesses.

### **3.5 Timescales**

3.5.1 It is in everyone's interests to resolve cases as quickly as possible, consistent with a fair and thorough investigation, and avoid unnecessary delay. Indicative timescales for each stage of the process are set out in section 4. However, it is recognised that the time taken to investigate and resolve individual cases may depend on a variety of factors, including the seriousness and complexity of the case.

### **3.6 Confidentiality**

3.6.1 Whilst an allegation is being investigated, every effort should be made to maintain confidentiality. It may be necessary to inform members of staff, but information sharing should be limited to what is needed.

3.6.2 Consideration will also need to be given as to whether to make a brief statement to parents of children in the school to provide an element of reassurance and to continue to provide information throughout the investigation.

3.6.3 The police will not normally provide any information to the press or media that might identify an individual, unless or until the person is charged with a criminal offence.

### **3.7 Information sharing**

3.7.1 During an initial evaluation of the case, or strategy discussion (see section 4.3.4), the agencies concerned should share all the relevant information that they have about the person who is the subject of the allegation and about the alleged victim.

3.7.2 If applicable and where possible, the police and children's services social care should obtain consent from the individuals concerned to share the statements and evidence they obtain during the course of their investigations with the school for disciplinary purposes. This should be done as the investigation proceeds rather than after it is concluded. When considering further action, schools should therefore take account of any relevant information obtained in the course of those enquiries.

### **3.8 Suspension**

3.8.1 Suspension should not be seen as an automatic response to an allegation. A person must not be suspended without careful consideration, taking into account the seriousness and plausibility of the allegation and the risk of harm to the pupil concerned. Suspension should therefore be intended as a safeguard for both the child making the allegation and the member of staff against whom the allegation has been made.

3.8.2 In general, suspension should only be considered in any case where there is cause to suspect a child is at risk of significant harm, where it is necessary to allow any investigation to continue unimpeded or where the allegation is so serious that if proven it might be grounds for dismissal.

3.8.3 The power to suspend is vested in the Executive Head of school / Head of School /governing body. However, it would be appropriate for the views of the police/children's services social care to be canvassed prior to any final decision being made as to whether to

suspend a member of staff. In any event, suspension should only follow after discussion with the Local Authority Designated Officer (LADO) /HR Officer.

3.8.4 If the initial suspension meeting takes place prior to the strategy discussion, care should be taken in relation to the amount of information given to the member of staff.

3.8.5 Schools should also consider whether the result that would be achieved by suspension could be achieved by alternative arrangements, such as paid leave of absence, additional supervision, undertaking different duties at school or at home.

3.8.6 A decision to suspend can be made at any stage during the investigation process, reviewed in the light of new evidence and should be carried out in accordance with the procedure set out in our Disciplinary Policy.

3.8.7 Suspension or alternative measures should be in place for as short a length of time as possible and if it is agreed that a member of staff is to return to work, careful planning needs to take place to ensure the situation is managed as sensitively as possible.

### **3.9 Records**

3.9.1 It is important that a clear and comprehensive summary recording the outcome of any allegations is kept on a person's file and a copy provided to the individual.

3.9.2 All documents relating to an investigation must be retained until at least the person has reached normal retirement age or for a period of 10 years from the date of the allegation, if that is longer. This includes all allegations, even if unfounded or malicious (refer to definitions at Appendix B). This enables accurate information to be given in response to any future request for a reference and will help provide clarity where a future CRB disclosure reveals police information that an allegation was made but did not result in a prosecution or conviction. Such a record also serves to protect the employee from unnecessary re-investigation if allegations resurface after a period of time.

3.9.3 Some cases must be reported to the DfE for consideration of including the person on List 99 (see Step 5, Referral, at paragraph 4.8).

3.9.4 A copy of the allegation should also be placed on the pupil's file, together with a written record of the outcome.

### **3.10 Support**

3.10.1 Parents or carers of a child or children involved should be told about the allegation as soon as possible (with the proviso of 4.2.3). They should also be kept informed about the progress of the case, including suspension, and told the outcome where there is not a criminal prosecution. This also includes the outcome of any disciplinary process.

3.10.2 In cases where a child may have suffered significant harm, or there may be a criminal prosecution, children's services social care or the police, as appropriate, should also consider what support the child, children and their parents may need.

3.10.3 The school should keep the person who is subject of the allegations informed of the progress of the case and consider what other support is appropriate, such as making them

aware of the Staff Counselling Service where appropriate (See appendix C for telephone number). If the person is suspended, they should be kept informed about developments at the school. Social contact with colleagues and friends at the school should not necessarily be precluded.

3.10.4 As a school, we will consider the emotional needs of the staff member and ensure the individual has access to welfare counselling or the support of a medical adviser (Occupational Health), where appropriate.

3.10.5 Depending on the circumstances of the alleged abuse, support for others at the school, both staff and pupils, might also need to be considered.

3.10.6 If the allegations are unfounded and no action is to be taken against the member of staff, the Executive Head/ Head of School/ Chair of Governors should still consider whether counselling and/or informal professional advice might be appropriate for all parties, to help rebuild confidence where necessary. Phased return on full pay for the member of staff could be considered and/or the provision of a mentor. A meeting with the employee and their union representative to discuss such matters would also be helpful.

### **3.11 Resignations**

3.11.1 The fact that a person tenders their resignation must not prevent an allegation being followed up in accordance with the procedure outlined at section 4.

3.11.2 It is important that every effort is made to reach a conclusion in all cases, including any in which the individual concerned refuses to co-operate with the process.

3.11.3 Compromise agreements must not therefore be used in any allegation cases.

### **3.12 Overview and monitoring**

3.12.1 The LADO has overall responsibility for the overview of the procedures for dealing with allegations, and will provide advice and guidance to schools, as appropriate.

3.12.2 The LADO will also monitor the progress of cases and liaise with the police and other agencies to ensure that cases are dealt with as quickly as possible, consistent with a fair and thorough process.

3.12.3 The contact details for the designated LADO are set out at Appendix B of this document.

3.12.4 HR will work with the LADO to ensure the appropriate application of this procedure and will provide specific advice in cases of formal disciplinary action.

## **4 PROCEDURE**

### **4.1 Step 1: Reporting of Allegations**

4.1.1 All allegations should be reported to the Executive Head/ Head of School immediately, unless the allegation is about the Executive Head in which case it should be reported to the Chair of Governors or the Vice Chair in the Chair's absence.

4.1.2 A written, dated record must be made by the Executive Head / Head of School/ Chair of Governors of the allegations as soon as practicable, but certainly within 24 hours.

4.1.3 The LADO should be informed of all the allegations that come to the school's attention so that they can consult the police and children services social care colleagues as appropriate. If the allegation falls under the remit of 3.1 above, the case should be reported to the LADO on the same day, where practicable.

4.1.4 The LADO should also be informed of any allegations that are made directly to the police or children's services social care.

4.1.5 The Executive Head / Head of School/ Chair of Governors should not investigate the allegation at this stage. However, serious consideration will need to be given as to whether it is appropriate to suspend the individual concerned (see paragraph 3.8).

## **4.2 Step 2: Informing relevant parties**

4.2.1 The EHT / AHT / HoS / Chair of Governors should inform the accused person about the allegation as soon as possible **after** consulting the LADO and subject to 4.2.3 below. If the person is a member of a union or professional association, they should be advised to contact that organisation.

4.2.2 If the parents/carers of the child concerned are not already aware of the allegation, the LADO should also discuss with the EHT / AHT /HoS/ Chair of Governors how and by whom they should be informed.

4.2.3 However, where a strategy discussion is needed, or the police or children's services social care need to be involved (see 4.3.4 below), the EHT / AHT / HoS/ Chair of Governors should not inform the relevant parties until those agencies have been consulted and agreed what information can be disclosed.

## **4.3 Step 3: Initial Evaluation**

4.3.1 There may be up to 3 strands in the consideration of an allegation:

- a police investigation of a possible criminal offence;
- enquiries and assessment by children's services social care about whether a child is in need of protection or in need of services;
- consideration by the school of disciplinary/capability action in respect of the individual.

4.3.2 The LADO should discuss the matter with the EHT / AHT / HoS/ Chair of Governors, establish that the allegation is within the scope of these procedures and, where necessary, obtain further details of the allegation and the circumstances in which it was made.

4.3.3 Consideration should also be given as to whether any other children may be likely to be at risk in the light of the allegation and whether it might be necessary to review any previous allegations made.

4.3.4 If there is cause to suspect that a child is suffering or is likely to suffer significant harm, the LADO will contact children services social care and ask for a strategy discussion to be convened straight away. The focus of this discussion will be on the needs of the child or children who may be at risk.

4.3.5 The strategy discussion should include the LADO, HR and the EHT / AHT /HoS /Chair of Governors and take account of information that the school can provide about the circumstances or context of the allegation and the pupil and member of staff concerned.

4.3.6 If the “threshold of significant harm” has not been reached, but a police investigation might be needed, the LADO should conduct a similar discussion with the police, school and other agencies to evaluate the allegation and decide how best to deal with it.

4.3.7 If the allegation is about physical contact, the strategy discussion or initial evaluation should take account of the fact that teachers and other school staff are entitled to use reasonable force (see appendix C The Use of Force to Control or Restrain Pupils DFEE) to control or restrain pupils in certain circumstances.

4.3.8 However, the police must always be consulted about any case in which a criminal offence may have been committed.

#### **4.4 Step 4: Action following initial evaluation**

4.4.1 If the child or children appear to be at risk of significant harm and in need of protection, there should be an urgent referral to local child protection agencies in accordance with the agreed procedures.

4.4.2 If as a result of the strategy discussion, there is reason to believe that a criminal offence has been committed, the police will carry out a full investigation as outlined in section 4.6.

4.4.3 Where the initial consideration decides that the allegation does not involve a possible criminal offence or that there is no significant risk to the child, the LADO should discuss the next steps with the Executive Head / Head of School /Chair of Governors and institute action as appropriate within 3 working days.

4.4.4 The options open to the school depend on the nature and circumstances of the allegation and the evidence and information available and will range from taking no further action to summary dismissal.

4.4.5 The LADO should continue to liaise with the school to monitor the progress of any case and provide advice and support as necessary. Reviews should be conducted at fortnightly or monthly intervals depending on the complexity of the case.

#### **4.5 Unfounded and malicious allegations (refer to Appendix B for definitions)**

4.5.1 If the allegation is considered to be false, the LADO should refer the matter to children’s services social care to determine whether the child concerned is in need of services, or may have been abused by someone else.



4.5.2 In respect of malicious allegations, consideration should also be given to whether disciplinary action against the pupil who made the allegation is appropriate.

4.5.3 The member of staff should be informed of the allegation verbally and in writing, if this has not already been done in line with 4.2.1. The suspension should be lifted immediately, if applicable. They should be told of the fact that no further action will be taken in accordance with disciplinary/child protection procedures and relevant support considered in respect of their return to work as well as other factors as appropriate on a case by case basis.

4.5.4 The Executive Head/ Head of School/ Chair of Governors should also inform the parents of the child or the children of the outcome and consider what counselling and support would be appropriate. Advice and support should be sought from the Local Authority as appropriate.

4.5.5 When a decision is made to take no further action, a written record should be made, including the reason for the decision. A copy of this should be provided to the employee.

#### **4.6 Police investigation**

4.6.1 If a criminal investigation is required, the police will aim to complete their enquiries as quickly as possible consistent with a fair and thorough investigation and will keep the progress of the case under review.

4.6.2 A target date should be set for reviewing the progress of the investigation and this should take place no later than 4 weeks after the initial evaluation.

4.6.3 When a decision has been made not to charge the individual with an offence or administer a caution, the police should, wherever possible, aim to pass all the information they have to the school within 3 working days, as this may be relevant to a disciplinary case.

4.6.4 If the person is convicted of an offence the police should inform the school straight away. The action the school might take will depend on the circumstances of the case and consideration will need to be given to the different standard of proof required in disciplinary and criminal proceedings. For example, it may be the case that, whilst there is no criminal prosecution, the standard of proof required for employment law purposes deems that dismissal is appropriate.

#### **4.7 Disciplinary action**

4.7.1 If a disciplinary hearing is required and can be held without further investigation, the hearing should be held within 15 working days in accordance with the School Disciplinary Policy.

4.7.2 Notwithstanding 4.7.1 above, if a police investigation is being undertaken, consideration will need to be given as to whether disciplinary action can be taken in parallel with the criminal process, or whether the disciplinary process will need to await completion of the police enquiries and/or prosecution. In cases where a disciplinary investigation/action is undertaken in parallel with the criminal process it will have been agreed with the police that there is no requirement to await the completion of enquiries and/or prosecution.

4.7.3 Where further investigation is required to inform consideration of disciplinary action, the EHT / AHT / HoS / Chair of Governors should appoint an appropriate level Investigating Officer, in consultation with HR.

4.7.4 If further evidence comes to light during the course of the investigation, referral to child protection agencies may need to be considered.

4.7.5 The investigating officer should aim to provide a report to the school within 10 working days.

4.7.6 Within 2 working days of receipt of the report, the Executive Head / Head of School/ Chair of Governors should consult HR and decide whether a disciplinary hearing is needed. If this is the case, the hearing should be held within 15 working days.

#### **4.8 Step 5: Referral to DFE**

4.8.1 On conclusion of the case, where an allegation has been substantiated, the school should consult the LADO who will also liaise with HR about whether a referral to DFE for is required, or advisable. If a referral is appropriate the report should be made within one month.

#### **4.9 Step 6: Formal Review**

4.9.1 In cases where an allegation has been substantiated, the LADO should review the circumstances of the case with the EHT / AHT / HoS / Chair of Governors and determine whether there are any improvements that could be made to the school's procedures/practice, to help prevent similar events occurring in the future.

## **Appendix A – Extract from ‘London Child Protection Procedures’**

### **7. Allegations against staff or volunteers, who work with children**

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#### **7.1 The management of allegations against staff or volunteers who work with children**

- 7.1.1 Despite all efforts to recruit safely there will be occasions when allegations of abuse against children are raised. Local Safeguarding Children Boards (LSCBs) should therefore have arrangements in place for monitoring and evaluating their effectiveness.
- 7.1.2 These procedures should be applied 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.
- 7.1.3 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 (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);<sup>89</sup>

- Other 'grooming' behaviour giving rise to concerns of a broader child protection nature (e.g. inappropriate text / e-mail messages or images, gifts, socializing etc);
- Possession of indecent photographs / pseudo-photographs of children.

7.1.4 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.

### **Roles and responsibilities**

7.1.5 Each LSCB member organisation should identify a named senior officer with overall responsibility for:

- Ensuring that the organisation deals with allegations in accordance with these *London Child Protection Procedures*;
- Resolving any inter-agency issues;
- Liaising with the LSCB on the subject.

7.1.6 Local authorities should assign a 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.

7.1.7 Employers should 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.

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

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

7.1.9 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.

7.1.10 Detailed guidance can be found for schools and all educational establishments in Keeping Children Safe in Education: Statutory Guidance for Schools and Colleges (2014).

Additionally new statutory guidance has been issued 'Disqualification under the Childcare Act 2006' (February 2015) which replaces the supplementary advice that was issued by the Department for Education on 10 October 2014.

## **7.2 General considerations relating to allegations against staff**

### **Persons to be notified**

7.2.1 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.

7.2.2 The Designated Officer 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).

7.2.3 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.

7.2.4 The employer should seek advice from the Designated Officer, the police and / or LA children's social care about how much information should be disclosed to the accused person.

7.2.5 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).

7.2.6 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.

7.2.7 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.

7.2.8 LA 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**

7.2.9 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.

7.2.10 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.

7.2.11 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.

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.<sup>92</sup>

### **Support**

7.2.12 The organisation, together with LA 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.

7.2.13 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.

### **Suspension**

7.2.14 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.

7.2.15 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.

7.2.16 If a strategy meeting / discussion is to be held or if LA 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.

7.2.17 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'**

7.2.18 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.

7.2.19 '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).<sup>93</sup>

### **Organised and historical abuse**

7.2.20 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.

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

### **Whistle-blowing**

7.2.22 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.

7.2.23 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 Designated Officer. See also Local Safeguarding Children Boards Procedure.

### **Timescales**

7.2.24 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 of the *London Child Protection Procedures* are realistic in most cases, but some cases will take longer because of their specific nature or complexity.

## **7.3 Initial response to an allegation or concern**

7.3.1 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).

### **Initial action by person receiving or identifying an allegation or concern**

7.3.2 The person to whom an allegation or concern is first reported should treat the matter seriously and keep an open mind.

7.3.3 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.<sup>94</sup>

7.3.4 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.
- Initial action by the designated senior manager.

**Initial action by the designated senior manager**

7.3.5 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 (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.

7.3.6 The designated senior manager should report the allegation to the Designated Officer and discuss the decision in relation to the agreed threshold criteria in The management of allegations against staff or volunteers who work with children 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.

7.3.7 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 Designated Officer as soon as possible.

7.3.8 If a police officer receives an allegation, they should, without delay, report it to the designated detective sergeant on the child abuse investigation team (CAIT). The detective sergeant should then immediately inform the Designated Officer.

7.3.9 Similarly an allegation made to LA children's social care should be immediately reported to the Designated Officer.

**Initial consideration by the designated senior manager and the Designated Officer**

7.3.10 There are up to three 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 disciplinary action.

7.3.11 The Designated Officer 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 should be taken to



ensure that the child is not confused as to dates, times, locations or identity of the member of staff

7.3.12 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 Designated Officer should refer to LA children's social care and ask them to convene an immediate strategy meeting / discussion.

7.3.13 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 Designated Officer 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.

7.3.14 References in this document to 'strategy meetings / discussions' should be read to include 'initial evaluations' where appropriate.

### **Strategy meeting / discussion**

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

- The Designated Officer (formerly known as the 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;96
- 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.

7.3.16 The strategy meeting / discussion / initial evaluation should:

- Decide whether there should be a s47 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.

7.3.17 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, 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.<sup>97</sup>

7.3.18 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.

7.3.19 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.

#### **Allegations against staff in their personal lives**

- 7.3.20 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.
- 7.3.21 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.
- 7.3.22 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.
- 7.3.23 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.98

## **7.4 Disciplinary process**

### **Disciplinary or suitability process and investigations**

7.4.1 The Designated Officer 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 the Designated Officer 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..

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

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

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

7.4.4 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.

7.4.5 If further investigation is needed to decide upon disciplinary action, the employer and the Designated Officer 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.

7.4.6 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.

7.4.7 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.

7.4.8 The investigating officer should aim to provide a report within ten working days.<sup>99</sup>

7.4.9 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**

7.4.10 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.

7.4.11 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.

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

## **7.5 Record keeping and monitoring progress**

### **Record keeping**

7.5.1 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 the DfE statutory guidance Keeping Children Safe in Education: Statutory Guidance for Schools and Colleges, which was updated and published for implementation July 2015.

### **Monitoring progress**

7.5.2 The Designated Officer 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 the target timescales cannot be met, the Designated Officer should record the reasons<sup>100</sup>

7.5.3 The Designated Officer 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) as required

7.5.4 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.

## **7.6 Unsubstantiated and false allegations**

7.6.1 Where it is concluded that there is insufficient evidence to substantiate an allegation, the Chair of the strategy meeting / discussion or initial evaluation should prepare a separate report of the enquiry and forward this to the designated senior manager of the employer to enable them to consider what further action, if any, should be taken.

7.6.2 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 Designated Officer, 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.

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

## **7.7 Substantiated allegations and referral to the DBS**

### **Substantiated allegations**

7.7.1 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.

7.7.2 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).

7.7.3 If a referral is to be made; it should be submitted within one month of the allegation being substantiated.<sup>101</sup>

### **Bodies with a legal duty to refer**

7.7.4 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**

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

## **7.8 Learning lessons**

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

## **7.9 Procedures in specific organisations**

7.9.1 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 Designated Officer.

## **Appendix B: Definitions**

### **1.1 Types of Allegation**

#### **a) No further action after initial consideration**

Initial consideration means the discussion about whether the alleged incident constitutes an allegation within the scope of the Local Safeguarding Children Board (LSCB) procedures, i.e. the initial discussion with the LADO, Social Care or Police following which there may be no need for further action under the procedures. It does not mean following an initial assessment undertaken in accordance with the Framework for the Assessment of Children in Need and their Families.

#### **b) Unfounded**

This indicates 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. For an allegation to be classified as unfounded, it will be necessary to have evidence to disprove the allegation.

#### **c) Unsubstantiated**

This is not the same as a false (malicious) allegation. It simply means that there is insufficient identifiable evidence to prove or disprove the allegation.

#### **d) Malicious**

This means there is evidence to show that there has been a deliberate act to deceive and the allegation is false.

### **1.2 Chair of Governors**

Responsible for liaising with the Executive Head/ Head of School designated teacher at the school over matters regarding child protection issues, or in the case of allegations against the Executive Head/ Head of School, liaising with the LA designated officer/HR over appropriate action to take.

### **1.3 Local Authority Designated Officer (LADO)**

Has overall responsibility for ensuring that the school and LA have procedures for dealing with allegations, resolving any inter-agency issues and liaising with schools and the Local Safeguarding Children Boards (LSCB) on the subject.

LADO: Rongful Begum  
Telephone: 020 8496 3646 / 07791 559 789  
Email: rongful.begum@walthamforest.co.uk

### **1.4 Safeguarding Children Board**

Key statutory mechanism for agreeing how the relevant organisations in each local area will co-operate to safeguard and promote the welfare of children.



## **Appendix C: Further Reference documents**

### **Safeguarding Children and Safer Recruitment in Education, January 2007.**

- Chapter 5 deals with allegations of abuse against teachers and other school staff.

### **"Working Together to Safeguard Children 2006 - a guide to interagency working to safeguard and promote the welfare of children", HM Government 2006**

- Updated document that sets out how individuals and organisations should work together to safeguard and promote the welfare of children.

### **Section 550A of the Education Act 1996: The Use of Force to Control or Restrain Pupils DfEE/10/98**

- forbids corporal punishment, but allows all teachers to use reasonable force to prevent a pupil from committing a criminal offence, injuring themselves or others, damaging property, acting in a way that is counter to maintaining good order and discipline at the school.

### **Joint NEOST/Teacher Unions Guidance on Education staff and child protection: Staff facing an allegation of abuse, September 2002.**

- Guidelines on Practice and Procedure.

### **Allegations against Education Staff – thresholds for and alternatives to suspension, National Network of Investigation & Referral Support Coordinators, updated February 2005**

**School Whistleblowing Policy** – A Framework by which staff can voice their concerns in good faith about practice within the school without fear of repercussion and in accordance with the Public Interest Disclosure Act 1998.

**L.B.W.F Counselling Service – Phone Number 07950 871 772**