

HARROW SAFEGUARDING CHILDREN BOARD (HSCB)

MANAGING ALLEGATIONS AGAINST STAFF AND VOLUNTEERS WORKING WITH CHILDREN AND YOUNG PEOPLE

Revised June 2015

1. INTRODUCTION

Any allegation of abuse is likely to cause a great deal of anxiety and concern for all concerned: the child and his/her family; the accused and his/her family; colleagues and those charged with managing the situation. These procedures are produced to guide managers and staff through the necessary stages to ensure that cases are dealt with very quickly, in a fair and consistent way that provides effective protection for the child and at the same time supports the person who is the subject of the allegation.

2. SAFEGUARDING ENVIRONMENTS

All organisations should be proactive in reducing the risk of child abuse taking place within the services they provide by:

- Developing a safeguarding ethos in which children and staff can express their concerns; where staff are encouraged to challenge poor practice constructively; and where Whistle-blowing procedures can be engaged without fear. This means that safeguarding policies and procedures are accessible to all and that there are means for communication and access to skilled advice, both internal and external to the organisation.
- Adopting safe recruitment and effective safe termination of employment practices (see HSCB guidance for safer employment).
- Ensuring that all staff receive appropriate training in child protection, including how to recognise and respond to allegations against staff.
- Ensuring that staff understand what safe practice is and what is not. In particular, staff must be aware of behaviours that are likely to bring about criminal, child protection or disciplinary action. All staff therefore, should be provided with clear and relevant codes of conduct.
- Ensuring that vulnerabilities expressed by staff are taken seriously and responded to at the earliest stage.
- Ensuring that when appropriate, risk assessments are undertaken following allegations to reduce the likelihood of repetition.

Note: A failure to report an allegation in accordance with the following procedure is a potential disciplinary matter.

Staff and volunteers are also strongly advised to report any incident involving themselves that could give rise to concern, including the potential for misinterpretation by others.

3. SCOPE

Working Together 2015 states that Local Safeguarding Children Boards are responsible for developing policies and procedures for safeguarding and promoting the welfare of children. These should include procedures for investigating allegations concerning persons who work with children.

These procedures should be applied when there is an allegation or concern that any person who works with children, in connection with his/her 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; or**
- **Behaved towards a child or children in a way that indicates he or she would pose a risk of harm to children**

These behaviours should be considered within the context of the four categories of abuse i.e. physical, sexual, emotional abuse and neglect as defined in Working Together 2015. These include concerns relating to inappropriate relationships between members of staff and children or young people e.g.:

- Having a sexual relationship with a child under 18 if in a position of trust in respect of that child, even if consensual
- 'Grooming' i.e. meeting a child under 16 with intent to commit a relevant offence
- Other 'grooming' behaviour giving rise to concerns of a broader child protection nature e.g. inappropriate text / email messages or images, gifts, socialising, steering towards extremist behaviour etc.
- Possession of indecent photographs / pseudo-photographs of children

Reference to 'staff' should be read as including all staff, whether paid or voluntary.

4. ROLES AND RESPONSIBILITIES

Named Senior Officer (NSO)

All HSCB member organisations, including the Local Authority should identify a **Named Senior Officer** with overall responsibility for:

- ensuring the organisation operates in accordance with the guidance in 'Working Together to Safeguard Children' (March 2015);
- resolving any inter-agency issues; and
- liaising with the HSCB on the subject

Senior Police Officer

Police forces should identify a **Senior Officer** to:

- have strategic oversight of the arrangements for dealing with allegations against those who work with children
- liaise with the HSCB
- ensure compliance with these procedures

Designated Senior Manager (DSM)

Employers and Voluntary Groups should:

- identify a senior manager/person within the organisation to whom allegations or concerns that a member of staff or volunteer may have abused a child should be reported
- identify an alternative person to whom reports should be made in the absence of the NSM, or in cases where that person is the subject of the allegation or concern (or otherwise compromised)
- make sure that all staff and volunteers know who these persons are and that they comply with these procedures

Police Unit Managers

Police forces should identify unit managers to:

- liaise with the Local Authority Designated Officer (see below)
- take part in strategy discussions/meetings
- review the progress of cases in which there is a police investigation
- share information on completion of the investigation or any prosecution

Local Authority Designated Officer (LADO)

The Local Authority should designate officers to:

- be involved in the management and oversight of individual cases
- provide advice and guidance to employers and voluntary organisations
- liaise with the police, social care and other involved agencies
- monitor the progress of cases to ensure that they are dealt with as quickly as possible, consistent with a thorough and fair process

5. GENERAL CONSIDERATIONS

Children and their parents/carers

The parents, carers and the child, if sufficiently mature should be helped to understand the processes involved and kept informed about the progress of the case and of the outcome. This will include the outcome of any disciplinary process, but not the deliberations of, or the information used in a hearing.

The organisation together with Children's Social Care and the Police where they are involved should consider the impact on the child concerned and provide support as appropriate. A HSCB leaflet for parents is available on the HSCB website <http://harrowscb.phewinternet.com>

Staff subject to the allegation or concerns

The member of staff should be:

- treated fairly, honestly, respectfully and helped to understand the concerns expressed and processes involved. A HSCB leaflet is available to support this process – it should not be used to replace the need for direct and sensitive communication

- 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
- As soon as possible after an allegation has been received the accused member of staff should be advised to contact his/her union or professional association, if they are affiliated to one. 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.

Where a member of staff returns to work after a period of suspension, the employer should consider what help and support might be appropriate e.g. a phased return to work; provision of a mentor; how best to manage the member of staff's contact with the child concerned, if still in the same environment.

Ofsted

Ofsted should be informed of allegations or concerns made against:

- a member of staff in any day care establishment for children under 8
- a registered child-minder
- a foster carer
- a member of staff in a residential child care facility

They should also be invited to take part in strategy discussions.

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 up to date with the 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 (in the case of education staff, the police must apply to a magistrates' court to request that reporting restrictions be lifted).

The reporting restrictions cease to apply if the individual to whom the restrictions apply effectively waives their right to anonymity by going public themselves or by giving their written consent for another to do so.

The strategy group managing the allegations should consider:

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

Suspension

Suspension should not be automatic. It should be considered in any case where:

- there is cause to suspect a child is at risk of significant harm, or

- the allegation warrants investigation by the police, or
- the allegation is so serious that it might be grounds for dismissal
- the risks 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.

The decision whether to suspend the member of staff rests with the employer. The employer should however, make an informed decision by seeking a recommendation from the LADO and from investigative agencies where they are involved.

Resignations and 'Settlement Agreements' (formerly known as 'Compromise Agreements')

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

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

Settlement agreements must not be used. This is a negotiated settlement which often involved an agreed termination of the contract. Terms of the agreement may include an undertaking that disciplinary action is not taken and that a future reference is agreed.

Organised and Historical Abuse

Investigators should be alert to the signs of organised or widespread abuse and/or the involvement of other perpetrators or institutions. They should consider whether the matter needs to be dealt with in accordance with Complex Abuse Procedures, which if applicable, will take priority over these procedures.

Historical allegations should be responded to in the same way as contemporary concerns and with the same degree of priority. 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.

Timescales

It is in everyone's interest for cases to be dealt with expeditiously, fairly and thoroughly and for unnecessary delays to be avoided. Target timescales are set out in these procedures. If these timescales cannot be met, the reasons should be documented e.g. because of the specific nature or complexity of the case, including court proceedings.

6. INITIAL RESPONSE TO ALLEGATIONS OR CONCERNS

Action by person receiving the allegation or concern:

- Treat it seriously and keep an open mind
- Instigate immediate medical care where appropriate (this means initial first aid not a forensic examination)
- Make a written record, as far as possible in the child/adult's own words
- Include date/time/place of alleged incident, persons present

- Sign and date the written record
- Do not investigate or ask leading questions if seeking clarification
- Do not make assumptions or offer alternative explanations
- Do not promise confidentiality

Inform the Designated Senior Manager/Person in your organisation **immediately**

Action by Designated Senior Manager (DSM)

When informed of a concern or allegation, the DSM should not investigate the matter or interview the member of staff concerned or potential witnesses. The DSM should:

- Obtain written details of the concern/allegation, signed and dated by the person receiving the allegation (Not from the child/adult making the allegation)
- Countersign and date the written details
- Record any information about times, dates and location of alleged incident/s and names of any potential witnesses
- Record discussion about the child and/or member of staff, any decisions made, and the reasons for those decisions

If the allegation meets the criteria listed in section 3 (Scope) of this guidance, then the DSM must report this to the LADO within **1 working day**. Contact with the LADO should not be delayed in order to gather further information. The LADO should be contacted via **Harrow MASH on 020 8901 2690**.

As soon as possible after an allegation is made, the parents or carers should be informed. Where possible, advice should be sought from the LADO on how this should be managed.

The LADO should also be consulted about how and when the accused member of staff is to be informed of the allegation. If sharing the information with the member of staff will not impede or undermine any subsequent investigation there should be no delay in doing so. At this early stage, it is advisable to only explain that an allegation of a child protection nature has been made. The detail of the allegation can be explained by the investigative agencies if they are to become involved.

Actions by the Local Authority Designated Officer (LADO)

There can be three strands in the consideration:

- Police investigation of a possible criminal offence
- Social care enquiries/assessment about whether a child is in need of protection or services
- Consideration of any need for disciplinary action

The LADO and senior manager should consider whether further details are needed and whether there is evidence or information that establishes that the allegation is demonstrably

false or unfounded, taking care to ensure there is no confusion e.g. concerns should not be dismissed where a child might be confused about dates, times, locations or identity of the member of staff.

If the allegation is not demonstrably false at the outset and there is cause to suspect that a child is suffering or likely to suffer significant harm, the LADO should discuss the allegation with the relevant social care manager **within 24 hours** and decide whether an immediate strategy discussion is required.

The police must be consulted about any case in which a criminal offence may have been committed.

7. STRATEGY DISCUSSIONS/MEETINGS

Where there is cause to suspect significant harm or that a criminal offence may have been committed, the LADO should contact social care and the police to ask for an immediate strategy discussion to decide on appropriate action.

The strategy discussion will include the LADO, social worker and his/her manager, police and wherever possible, the DSM and Human Resources representative. Others may be invited where relevant e.g. any provider agency representative; health advisor, OFSTED.

Shared risks for Children and Vulnerable Adults

Where concerns about harm to children might also have implications for the safety of vulnerable adults, the initial strategy discussion must also include relevant senior staff from adult services. This may be particularly relevant where the alleged perpetrator provides services to both sets of service users. There should be reciprocal arrangements in Harrow Safeguarding Adults Board procedures.

The discussion should:

- ensure that where appropriate, immediate arrangements are made to protect the child/ren involved and any other children (including the member of staff's own children)
- decide whether there should be a child protection (s47 enquiry) by social care and/or a police investigation
- 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. s93 Education and Inspection Act 2006, and "Use of Reasonable Force – advice for head teachers, staff and governors" (DfE 2011).
- consider whether a Complex Abuse Investigation is applicable
- plan enquiries if needed, allocate tasks and set timescales
- decide what information can be shared, with whom and when
- consider the support needs for all children who may be affected
- consider the support needs for the member of staff and others who may be affected
- ensure that any internal investigations carried out by the organisation are sufficiently independent
- make recommendations where appropriate regarding suspension or alternatives to suspension (NB. the decision rests with the employer)
- consider issues for the attention of senior management e.g. media interest
- agree date for future strategy discussion if required

Information required for Strategy Meetings

The employer or their representative is likely to hold important information for the strategy discussion to consider. The employer (together with Human Resources where involved) should ensure as far as possible that the following information is made available.

Regarding the incident:

- Details of the initial report e.g. times, dates locations, what was said and by whom
- Details of possible witnesses

Regarding the member of staff:

- Personal details i.e. name, date of birth, address, ethnicity
- Employment record
- Any previous concerns/allegations
- Work context and duties
- Relationships with colleagues and pupils
- Other known activities in which they have contact with children
- Relevant personal and family information if known
- Hobbies or interests
- Awareness of safeguarding procedures and relevant training undertaken

Regarding the child and his/her family (information held will vary depending upon the nature of the organisation):

- Personal details e.g. name, date of birth, address, ethnicity
- Family composition, history, contact details, relationship with organisation
- Educational ability, development and progress, including any special needs
- Previous child protection concerns and any vulnerability factors
- Any previous allegations made
- Social relationships and activities, during and after school
- Speech, language and communication development
- Health, physical, emotional, behavioural and cognitive development

Regarding the organisation/service:

- Relevant policies and procedures e.g. physical intervention/de-escalation – and how
- Relevant training and how staff attendance is monitored

Allegations against staff in their personal lives

If an allegation or concern arises about a member of staff outside of his/her work with children, and this may present a risk to children for whom the member of staff is responsible, the general principles of these procedures still apply.

The strategy discussion should consider whether the concern identified justifies approaching the member of staff's current employer for further information in order to assess the level of risk; and/or inviting the employer to a further strategy discussion to consider any possible risks in the place of work.

If the member of staff lives in a different authority to that which covers his/her place of work, liaison should take place between the relevant LADOs and agencies for both areas – and a joint strategy meeting convened.

In some cases, an allegation of abuse against someone closely associated with a member of staff e.g. partner, member of the immediate family or other household member, may present a risk to children for whom the member of staff is responsible. In these circumstances, consultation with the LADO should take place to consider:

- the ability and willingness of the member of staff to adequately protect children
- whether measures need to be put in place to ensure their protection
- whether the role of the member of staff is compromised

8. DISCIPLINARY AND SUITABILITY PROCESSES

The LADO and DSM should discuss whether an internal disciplinary investigation is appropriate in cases where:

- It is clear at the outset or when decided by a strategy discussion that a police investigation or social care enquiry is not necessary, or
- The employer or LADO is informed by Police or the Crown Prosecution Service (CPS) that a criminal investigation and any subsequent trial is complete, or that an investigation is to be closed without charge, or a prosecution discontinued, or
- Where the police and CPS formally agree to a disciplinary investigation running concurrently with their own investigations

The discussion should consider any potential misconduct and/or suitability issues on the part of the member of staff and take into account:

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

If formal disciplinary action is not required, the employer should institute appropriate action **within 3 working days**. If a disciplinary hearing is required and further investigation is not required the hearing 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 and independent investigation because of the nature and complexity of the case and in order to ensure objectivity.

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. The investigating officer should aim to provide a report **within 10 working days**

On receipt of the report the employer should decide **within 2 working days**, whether a disciplinary hearing is needed. If a hearing is required, it should be held **within 15 working days**.

Supply, contract and volunteer workers

In the case of supply contract and volunteer workers, normal disciplinary procedures may not apply e.g. self-employed supply workers. 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.

Sharing information for disciplinary purposes

Wherever possible, during the course of their investigations and enquiries, police and social care should obtain consent to provide the employer and/or regulatory body with statements and evidence for disciplinary purposes. Consideration should also be given to the type of evidence required and how the employer and/or regulatory body is to access such evidence e.g. transcripts from, or direct viewing of, video recorded interviews.

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.

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

Outcomes and Definitions

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

- **Substantiated:** there is sufficient evidence to prove the allegation
- **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.
- **Unfounded:** there is no evidence or proper basis which supports the allegation that was made. It might also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw
- **False:** there is sufficient evidence to disprove the allegations
- **Malicious:** there is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false

At the conclusion of all cases the LADO should prepare a separate report of the enquiry and forward this to the DSM to enable her/him to consider what further action in any, should be taken.

False and malicious allegations may be an indicator of vulnerabilities or of abuse taking place elsewhere in a child's life, which requires further exploration.

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

9. RECORD KEEPING AND MONITORING PROGRESS

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 (Note: DfE Statutory guidance for schools and FE establishments states that details of allegations that are found to have been malicious should be removed from personnel records).

The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where future DBS checks reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time.

The record should be retained at least until the accused has reached **normal pension age or for a period of 10 years from the date of the allegation if that is longer.**

The Information Commissioner has published guidance on employment records in its Employment Practices Code and supplementary guidance, which provides some practical advice on record retention.

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

If the allegation is substantiated and the person is dismissed or the employer ceases to use the person's services, or the person resigns or otherwise ceases to provide his/her services, the LADO should discuss with the employer whether a referral should be made to the DBS for consideration of inclusion on the barred list; or to refer to the relevant regulatory body.

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

In compiling a report for a barring or regulatory body, the employer will be offered guidance by the LADO in:

- ensuring that wherever possible, the employer receives sufficient evidence from social care enquiries and police investigations
- assisting in the interpretation of outcomes and professional opinion
- assisting in the identification of risks to children

If a referral is to be made to the DBS it should be submitted **within 1 month** of the conclusion of the investigation.

Learning Lessons

The LADO will provide regular progress reports and statistics to the HSCB's Quality Assurance Sub-committee. The Sub-committee will determine whether there are any improvements to be recommended within specific organisations or across multi-agency procedure or practice.

Procedures for specific Organisations

Individual agencies' procedures for managing allegations against staff and volunteers, who work with children, should be compatible with the HSCB procedures in this document. In addition, they should provide contact details for:

- The Designated Senior Manager (DSM) in their organisation to whom all allegations should be reported;
- The Deputy DSM; and
- The Local Authority Designated Officer via **HARROW MASH: 020 8901 2690**