



# **St. Margaret's C of E Primary and Nursery School**

## **Allegations Against People who Work with, Care for or Volunteer with Children Policy**

Written: November 2022

Date for review: January 2025

Head Teacher's signature

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Chair of governor's signature

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## **Scope**

These procedures are based on the framework for dealing with allegations of abuse made against a person who works with children, detailed in Chapter 2 of Working Together to Safeguard Children 2018.

They should be followed by all organisations providing services for children and staff or volunteers who work with or care for children.

Compliance with these procedures will help to ensure that allegations of abuse are dealt with expeditiously, consistent with a thorough and fair process. Local Safeguarding Children Partnerships should therefore have arrangements in place for monitoring and evaluating their effectiveness.

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; or
- Behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children.
- Behaved or may have behaved in a way that indicates they may not be suitable to work with children

See also DfE statutory guidance Keeping Children Safe in Education

These behaviours should be considered within the context of the four categories of abuse i.e. Physical Abuse, Sexual Abuse, Emotional Abuse and Neglect.

These include concerns relating to inappropriate relationships between adults 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 (Sections 16-19 Sexual Offences Act 2003; 'grooming', i.e. meeting a child under 16 with intent to commit a relevant offence (Section 15 Sexual Offences Act 2003); other 'grooming' behaviour giving rise to concerns of a broader child protection nature e.g. Inappropriate text, e-mail messages or images, gifts, socialising, etc. and possession of abusive images of children.

## **Low Level Concerns**

The statutory guidance Keeping children safe in education (KCSIE) includes new guidance for schools and colleges in England on dealing with low-level concerns about the behaviour of teachers, other staff, volunteers and contractors (Department for Education (DfE), 2022).

### **What is a low-level concern?**

A low-level concern is any concern that an adult has acted in a way that:

- is inconsistent with the staff code of conduct, including inappropriate conduct outside of work
- doesn't meet the threshold of harm or is not considered serious enough for the school or college to refer to the local authority.

Low-level concerns are part of a spectrum of behaviour. This includes:

- inadvertent or thoughtless behaviour
- behaviour that might be considered inappropriate depending on the circumstances
- behaviour which is intended to enable abuse.

Examples of such behaviour could include:

- being over friendly with children
- having favourites
- adults taking photographs of children on their mobile phone
- engaging with a child on a one-to-one basis in a secluded area or behind a closed door
- using inappropriate sexualised, intimidating or offensive language.

What do schools and colleges need to do?

Schools should have a low-level concerns policy and procedures. These should be part of your school's overall safeguarding and child protection policies and procedures. It should be closely linked to the code of conduct for staff and volunteers. Low-level concerns which are shared about supply staff and contractors should be notified to their employers, so that any potential patterns of inappropriate behaviour can be identified

There should be clear processes in place for sharing and responding to any concerns about an adult's behaviour, no matter how small. A concern can still be significant even if it does not meet the threshold of harm.

Schools should ensure adults understand:

- what constitutes appropriate and inappropriate behaviour

- what a low-level concern is
- the importance of sharing low-level concerns
- how to report any concerns
- the process for recording, reviewing and responding to concerns.

#### KCSIE 436&426

- Schools and colleges should ensure they create an environment where staff are encouraged and feel confident to self-refer, where, for example, they have found themselves in a situation which could be misinterpreted, might appear compromising to others, and/or on reflection they believe they have behaved in such a way that they consider falls below the expected professional standards. (436)
- The term 'low-level' concern does not mean that it is insignificant. A low-level concern is any concern – no matter how small, and even if no more than causing a sense of unease or a 'nagging doubt' - that an adult working in or on behalf of the school or college may have acted in a way that:
  - is inconsistent with the staff code of conduct, including inappropriate conduct outside of work and
  - does not meet the harm threshold or is otherwise not serious enough to consider a referral to the LADO. (426)

All references in this document to 'members of staff' should be interpreted as meaning all staff, whether they are in a paid or unpaid capacity (including contracted staff).

### **Roles and Responsibilities**

Working Together 2018 states:

- County level and unitary local authorities should ensure that allegations against people who work with children are not dealt with in isolation. Any action necessary to address corresponding welfare concerns in relation to the child or children involved should be taken without delay and in a co-ordinated manner. Local authorities should, in addition, have designated a particular officer, or team of officers (either as part of local multi-agency arrangements or otherwise), to be involved in the management and oversight of allegations against people who work with children. Any such officer, or team of officers, should be sufficiently qualified and experienced to be able to fulfil this role effectively, for example, qualified social workers. Any new appointments to such a role, other than current or former designated officers moving between local authorities, should be qualified social workers. Arrangements should be put in place to ensure that any allegations about those who work with children are passed to the designated officer, or team of officers, without delay.
- Local authorities should put in place arrangements to provide advice and guidance to employers and voluntary organisations and agencies on how to deal with allegations against people who work with children. Local authorities should also

ensure that there are appropriate arrangements in place to liaise effectively with the police and other organisations and agencies to monitor the progress of cases and ensure that they are dealt with as quickly as possible, consistent with a thorough and fair process

### **Local Safeguarding Children Partnership**

Each safeguarding partnership member organisation should identify a Named Senior Officer with overall responsibility for:

- Ensuring that the organisation deals with allegations in accordance with these procedures;
- Resolving any inter-agency issues; and

Liaising with the safeguarding partnership on the subject.

### **Local Authorities should designate an officer(s) (LADO) or team of Designated Officers to:**

- Be involved in the management and oversight of individual cases;
- Provide advice and guidance to employers, voluntary organisations and community groups;
- Liaise with the police and other agencies; and
- 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.

### **Employers or Organisations**

Employers, Voluntary Organisations and organisations such as independent foster care agencies should designate:

- A named Senior Officer who is responsible for ensuring that procedures in relation to allegations and concerns are in place; and
- Designated Senior Manager(s) 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.

### **Sussex Police**

The Head of the Local Safeguarding Investigations Unit will:

- Have strategic oversight of the police arrangements for managing allegations against staff and volunteers;

- Liaise with the safeguarding partnership on the issue; and

Ensure compliance.

The Head of the Local Safeguarding Investigations Unit Detective Inspector will:

- Liaise with the Local Authority Designated Officer;
- Ensure a Safeguarding Investigations Unit detective sergeant takes part in Strategy Discussions;
- Review the progress of cases in which there is a police investigation;

Ensure information is shared as appropriate, on completion of an investigation or related prosecution.

### **Terms used throughout this section**

For the purposes of this procedure the term 'employer' will be used to describe the different types of organisation or agency which will either employ, or be recruit and support a volunteer.

The term 'member of staff' is used to describe the person subject to the allegation or concern. This covers roles such as volunteer, foster carer, childminder or employee.

The term 'disciplinary process' includes procedures contained within:

- An organisation's Human Resources manual setting out an employer's expectation;
- A fostering service's procedures concerning a review of a foster carer's suitability to foster according to the Fostering Services Regulations. In this process the term 'disciplinary hearing' is used as a term which also covers Fostering Panel hearings; and

Code of Practice or Volunteer Policies.

### **Procedures in Specific Organisations**

It is recognised that many organisations will have their own procedures in place, some of which may need to consider particular regulations and guidance, e.g. schools, registered child care providers, foster carers, etc.

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 Local Authority Designated Officer (LADO).

### **Persons to be Notified**

In principle, as soon as possible after an allegation is made, the employer should inform the parent(s) or carer(s) of the child(ren) involved. The LADO should be consulted first to ensure that this does not impede the disciplinary or investigative processes. In some circumstances, however, the parent(s)/carer(s) may need to be told straight away, e.g. if a child is injured and requires medical treatment.

The responsibility for carrying out the LADO duties rests with the LADO for the area where the person works. Where a person works in more than one area, a discussion should take place between the relevant LADOs to determine who should take the lead in managing the case.

The parent(s)/carer(s) 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 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.

In principle the employer should, as soon as possible, inform the person who is subject to the allegation or the concern relates to about the nature of the allegation, how enquiries will be conducted and the possible outcome e.g. disciplinary action. Advice should first be sought from the LADO as the Police and/or Children's Social Care may want to impose restrictions on the information that can be provided.

The member of staff should:

- Be treated fairly and honestly and helped to understand the concerns expressed and processes involved;
- Be kept informed of the progress and outcome of any investigation and the implications for any disciplinary or related process; and

If suspended, be kept up to date about events in the workplace.

Ofsted should also be informed of all allegations or concern made against a:

- Foster carer;
- Prospective adopter;
- Member of staff in a residential child care facility;
- Member of staff in any day care establishment for children under 8; or

Registered childminder.



They should also be invited to take part in any subsequent Strategy Discussion/Meeting.

Where the member of staff is agency teaching staff, a referral should be made to the LADO and the agency who supplied the teacher must be informed.

### **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 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.

### **Support**

#### **Support for the child**

The employing organisation together with Children's Social Care and/or the 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.

It should be clear to the child and their family who will keep them informed of the progress of the allegation or complaint.

#### **Support for the person subject to the allegation or concern**

As soon as possible after an allegation has been received, the person subject to the allegation or concern 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.

The person should be clear on who will update them on the progress of the investigation. This is an ongoing process and should be continued throughout any police investigation, Section 47 Enquiry or disciplinary investigation.

### **Managing Interim Risk**

In all situations the perceived level of risk during the investigation needs to be considered and managed.

In certain situations the level may require the member of staff not to be working with specific children or young people or all children and young people until the investigation is completed.

If this is the case then various options are open to the employer including:

- Redeployment so not to come into contact with one or more children;
- Refraining (agreeing that the person will not work with children during the investigation); or

Suspension.

Refraining or suspension should not be automatic or considered as a default option. They should be considered in any case where:

- There is cause to suspect a child is at risk of Significant Harm;
- The allegation warrants investigation by the police; or
- The allegation is so serious that it might be grounds for dismissal.

If suspension is deemed appropriate, the reasons and justification should be recorded and the individual notified of the reasons.

Decisions around risk are best made in an inter professional forum, if a Strategy Discussion/Meeting is to be held or if Children's Social Care or the Police are to make enquiries, the Local Authority Designated Officer should canvass their views on refraining/suspending and inform the employer.

Only the employer, however, has the power to refrain/suspend an accused employee and they cannot be required to do so by a local authority or the police.

The possible risks to children should be evaluated in terms of the child(ren) involved in the incident. Additionally, consideration must be given to the risks of any children related to, living with or in contact with through other work or community life, to the accused member of staff.

If the child also lives with the member of staff, for example in situations such as foster care or boarding school, then the welfare of the child should be considered paramount and the risk managed in a way which ensures the minimum of disruption, and encourages placement stability, but maximises the protection of the child(ren).

### **Resignations and Compromise Agreements**

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

- The individual refuses to cooperate, having been given a full opportunity to answer the allegation and make representations;

It may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete. However, in every situation the outcome of the disciplinary process should be recorded.

In these circumstances consideration should be given to making referrals to the Disclosure and Barring Service's Barred Lists and regulator/registration bodies.

'Compromise agreements' must not be used, e.g. where a member of staff agrees to resign provided that disciplinary action is not taken and that a future reference is agreed.

### **Organised and Historical Abuse**

Investigators should be alert to signs of organised or widespread abuse and/or the involvement of other perpetrators or institutions. They should consider whether the matter should be dealt with in accordance with Complex (Organised or Multiple) Abuse Procedure which, if applicable, will take priority.

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 and a Strategy Discussion/Meeting held.

### **Whistle Blowing**

All staff should be made aware of the organisation's whistle-blowing policy and feel confident to voice concerns about the attitude or actions of colleagues.

If a member of staff believes that a reported allegation or concern is not being dealt with appropriately by their organisation, (s)he should report the matter to the Local Authority Designated Officer.

### **Timescales**

It is in everyone's interest for cases to be dealt with expeditiously, fairly and thoroughly and for unnecessary delays to be avoided. The target timescales provided in these procedures are realistic in most cases, but some cases will take longer because of their specific nature, or complexity.

For those cases where it is clear immediately that the allegation is unsubstantiated or malicious, they should be resolved **within one week**. Where the initial consideration decides that the allegation does not involve a possible criminal offence it will be for the employer to deal with it, although if there are concerns about child protection, the employer should discuss them with the designated officer(s). In such cases, if the nature of the allegation does not require formal disciplinary action, the employer should instigate appropriate action **within three working days**. If a disciplinary hearing is required and can be held without further investigation, the hearing should be held **within 15 working days**.

### **Initial Response to Allegation or Concern**

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

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

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

He or she should not:

- Investigate or ask leading questions if seeking clarification;
- Make assumptions or offer alternative explanations; or

Promise confidentiality, but give assurance that the information will only be shared on a 'need to know' basis.

He or she 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; and

Immediately report the matter to the Designated Senior Manager, or deputy in their absence or where the senior manager is the subject of the allegation.

### **Initial action by the Designated Senior Manager**

When informed of a concern or allegation, the Designated Senior Manager should not investigate the matter or interview the member of staff, the child concerned or potential witnesses. He/she should:

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

If the allegation meets the criteria set out in Section 1, Scope, the Designated Senior Manager should report it to the Local Authority Designated Officer within **one working day**. Referral 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.

The headteacher or principal or (where the headteacher or principal is the subject of an allegation) the chair of governors, or the chair of the management committee or proprietor of an independent school (the 'case manager'), should discuss the allegation immediately with the designated officer(s).

If an allegation requires immediate attention, but is received outside normal office hours, the Designated Senior Manager should consult the Social Care Emergency Duty Team or local Police and inform the Local Authority Designated Officer as soon as possible.

### **Allegations received by the Police or Children's Social Care**

If a police officer receives an allegation, he or she should, without delay, report it to the Safeguarding Investigations Unit who should then immediately inform the Local Authority Designated Officer.

Similarly an allegation made to Children's Social Care should be immediately reported to the Local Authority Designated Officer.

### **Initial consideration by the Designated Senior Manager and the Local Authority Designated Officer**

There are up to 3 strands in the consideration of an allegation:

- A police investigation of a possible criminal offence;
- Children's Social Care enquiries and/or assessment about whether a child is in need of protection or services;

Consideration by an employer of following the disciplinary, standards of care or conduct procedures of the individual organisation.

The Local Authority Designated Officer and 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.

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 Local Authority Designated Officer should refer to Children's Social Care and ask them to convene an immediate Strategy Discussion.

The police must be consulted about any case in which a criminal offence may have been committed. If the threshold for Significant Harm is not reached, but a police investigation might be needed, the Local Authority Designated Officer should immediately inform the police and convene an Initial Evaluation (similar to Strategy Discussion), to include the police, employer and other agencies involved with the child.

References in this document to 'Strategy Discussions' should be read to include 'Initial Evaluations' where appropriate.

## **Restrictions on Identifying Teachers Against Whom Allegations of Criminal Misconduct Have Been Made**

With effect from 1 October 2012, the Education Act 2011 introduced reporting restrictions preventing the publication of any material that may lead to the identification of a teacher who has been accused by, or on behalf of, a pupil from the same school (where that identification would identify the teacher as the subject of the allegation). The reporting restrictions apply until the point that the accused person is charged with an offence, or until the Secretary of State or the General Teaching Council for Wales publishes information about an investigation or decision in a disciplinary case arising from the allegation. The reporting restrictions also 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 or if a judge lifts restriction in response to a request to do so. Breaching the reporting restrictions is a criminal offence.

The case manager should take advice from the LADO, Police and Children's Social Care services to agree the following:

- 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.

(Note that this provision applies only to teachers, not to other staff in educational establishments.)

### **Strategy Discussion**

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

- Local Authority Designated Officer;
- Relevant social worker and their manager;
- Detective sergeant (Safeguarding Investigations Unit);
- Designated Senior Manager for the employer concerned;
- Human resources representative;
- Legal adviser where appropriate;
- Senior representative of the employment agency or voluntary organisation;

- Manager from the fostering service provider when an allegation is made against a foster carer;
- Supervising social worker when an allegation is made against a foster carer;
- Those responsible for regulation and inspection where applicable e.g. Care Quality Commission (CQC) or Ofsted;
- Consultant Paediatrician;
- Where a child is placed or resident in the area of another authority, representative(s) of relevant agencies in that area;
- Complaints officer if the concern has arisen from a complaint.
- The LADO will be invited and attend Strategy meeting chaired by Children's Social Care in order to gain relevant information regarding an allegation as the majority of attendees will also be relevant to participate in a LADO meeting.
- At the conclusion of the Strategy meeting, the LADO meeting can commence chaired by the LADO and in order to respect the confidentiality of the allegation management element only those professionals relevant to the person of concern and the agency will remain in the meeting.

All participants should be aware that the LADO meeting is a confidential meeting and the notes of the meeting should not be shared with any other person without the express consent of the Chair. Where an invitee is from a non-statutory organisation a confidentiality agreement should be used.

The Strategy Discussion should:

- Decide whether there should be a Section 47 Enquiry and/or police investigation and consider the implications;
- Consider whether any parallel disciplinary/standards of care 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 550a Education Act 1996 in respect of teachers and authorised staff;
- Consider whether the Complex (Organised or Multiple) Abuse Procedure is applicable;
- Plan enquiries if needed, allocate tasks and set time-scales;
- Decide what information can be shared, with whom and when.

The Strategy Discussion should:

- 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;
- 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 Local Authority Designated Officer, having regard to the target timescales;
- Consider issues for the attention of senior management e.g. Media interest, resource implications;
- Consider whether a referral should be made to the Disclosure and Barring Service for consideration of barring;
- Consider risk assessments to inform the employer's safeguarding arrangements;

Agree dates for future Strategy Discussions.

### **Allegations against Carers**

The Strategy Discussion should be chaired by a suitable experienced and independent manager. This could be the Local Authority Designated Officer, or a suitable Children's Social Care Manager.

### **Section 47 Enquiry and Police Investigation**

If at the Strategy Discussion it is decided that either the police and/or Children's Social Care are to undertake enquiries or investigations then the progress of these enquires should be reported back to the employer and the Local Authority Designated Officer at agreed intervals.

At the completion of the police investigation and/or Section 47 Enquiry, then a further Strategy Discussion should be held to ensure that all tasks have been completed. This Strategy Discussion should:

- Ensure that the member of staff has been informed of the outcome of the Police investigation/Section 47 Enquiry;
- Enable the investigating officer/social worker an opportunity to summarise the actions taken, people interviewed; and



- Offer a professional judgement, based on the information available at the time, on whether the allegation fell into one of the following categories:
  - Substantiated. A substantiated allegation is one which is supported or established by identifiable evidence or proof;
  - Unsubstantiated. An unsubstantiated allegation is not the same as a false allegation. It simply means that there is insufficient identifiable 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 being made. This might 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;
  - False. There is sufficient evidence to disprove the allegation;
  - Malicious. There is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false.

This information should be recorded and given as a written record to the employer and the Local Authority Designated Officer (as per the procedures or, if in East Sussex, the operating instruction (OICS)).

Where a decision is made that criminal proceedings cannot be pursued, it should then be decided whether further investigation be undertaken, which may clarify whether the allegation is substantiated on a balance of probabilities, i.e. using the burden of proof used in civil cases (as opposed to the criminal burden of proof, which is 'beyond all reasonable doubt').

### **Sharing Information for Disciplinary Purposes**

Wherever possible, the Police and Children's Social Care should, during the course of their investigations and enquiries, obtain consent to provide the employer and/or regulatory body with statements and evidence for disciplinary purposes.

Where an allegation involves a person who is not a member of an organisation represented on the safeguarding partnership, evidence from the case will not be released by the police for disciplinary proceedings until the following has been considered and established:

- Does the company/organisation have disciplinary procedures in place?
- How often are they used?
- Who will be involved in the process?
- What is their experience in handling evidential and sensitive material;
- Has the victim/witness (or parent/carer) been informed about the impending process and confirmed their previous permission to share their evidence;

- What is the future potential to safeguard children arising from a disciplinary hearing.

Any case involving such a person should therefore be considered by the Police at the appropriate time, and the LADO informed. Even when the above has been confirmed there will be a presumption against the release on an investigative video recording, particularly if they contain evidence of sexual abuse or other sensitive matters.

If the Police or Crown Prosecution Service decides not to charge, or decide to administer a caution, or the person is acquitted, the police should pass all relevant information to the employer without delay.

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

### **Unsubstantiated Allegations**

Where it is concluded that there is insufficient evidence to substantiate an allegation, the chair of the Strategy Discussion or initial evaluation should prepare a separate report of the enquiry which uses the information from the Police/Children's Social Care and forward this to the Designated Senior Manager of the employer to enable her/him to consider what further action, if any, should be taken.

### **Malicious Allegations**

Such allegations are rare and may be a strong indicator of abuse elsewhere which requires further exploration. If an allegation deliberately invented and demonstrably malicious, the employer, in consultation with the Local Authority Designated Officer, should refer the matter to Children's Social Care to determine whether the child is in need of services, or might have been abused by others.

### **Disciplinary or Suitability Process and Investigations**

If an allegation is determined to be unsubstantiated or malicious, the designated officer(s) should refer the matter to the children's social care services to determine whether the child concerned is in need of services, or may have been abused by someone else. If an allegation is shown to be deliberately invented or malicious, a headteacher, principal or proprietor should consider whether any disciplinary action is appropriate against the pupil or student who made it; or whether the police should be asked to consider if action might be appropriate against the person responsible, even if they were not a pupil or student (Ref: KCSIE 2022)

The Local Authority Designated Officer and the Designated Senior Manager should discuss whether disciplinary/standards of care action is appropriate in all cases where:

- It is clear at the outset or decided by a Strategy Discussion that a police investigation or Section 47 Enquiry is not necessary; or

- The employer or Local Authority 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.

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

- Information provided by the police and/or Children's Social Care;
- The result of any investigation or trial;

The different standard of proof in disciplinary and criminal proceedings.

### **Supply teachers**

- In some circumstances schools and colleges will have to consider an allegation against an individual not directly employed by them, where its disciplinary procedures do not fully apply, for example, supply teachers provided by an employment agency or business
- Whilst schools and colleges are not the employer of supply teachers, they should ensure allegations are dealt with properly. In no circumstances should a school or college decide to cease to use a supply teacher due to safeguarding concerns, without finding out the facts and liaising with the LADO to determine a suitable outcome. Governing bodies and proprietors should discuss with the agency whether it is appropriate to suspend the supply teacher, or redeploy them to another part of the school, whilst they carry out their investigation.
- Agencies should be fully involved and co-operate in any enquiries from the LADO, police and/or children's social services. The school or college will usually take the lead because agencies do not have direct access to children or other school staff, so they will not be able to collect the facts when an allegation is made, nor do they have all the relevant information required by the LADO as part of the referral process. Supply teachers, whilst not employed by the school or college, are under the supervision, direction and control of the governing body or proprietor when working in the school or college. They should be advised to contact their trade union representative if they have one, or a colleague for support. The allegations management meeting which is often arranged by the LADO should address issues such as information sharing, to ensure that any previous concerns or allegations known to the agency are taken into account by the school during the investigation
- When using an agency, schools and colleges should inform the agency of its process for managing allegations. This should include inviting the agency's human resource manager or equivalent to meetings and keeping them up to date with information about its policies.

### **Considerations Post Investigation**

If a refrained/suspended person is to continue to work with children after the investigation into the process has been completed, 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. If an organisation removes an individual (paid worker or unpaid volunteer) from work such as looking after children (or would have, had the person not left first) because the person poses a risk of harm to children, the organisation must make a referral to the Disclosure and Barring Service. It is an offence to fail to make a referral without good reason.

### **Suggested Timescales**

The following process suggests timescales, which are the timescales to be used to inform the Local Authority Designated Officer.

It is important to recognise that the right outcome is far more important than meeting these timescales. The following principles should be used at all times.

- Minimising delay;
- Providing full written information;
- Being open;
- Ensuring access to independent support.

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, it should be held within 15 working days.

If further investigation is needed to decide upon disciplinary action, the employer and the Local Authority 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. A relative or friend of the member of staff should not conduct the investigation.

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.

If there has not been a police investigation/Section 47 Enquiry then the process would need to also come to the conclusion as to whether the allegation was substantiated, etc. as in Section 47 Enquiries and Police Investigations.

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 Children's Social Care and the Police. Consideration should again be given as to whether suspension is appropriate in light of the new information.

The investigating officer should aim to provide a report within 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.

## **Record Keeping and Monitoring Progress**

### **Record keeping**

Employers should keep a clear and comprehensive summary of the case record 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 completed in collaboration with the Local Authority Designated Officer.

A copy of this summary should be:

- Placed on the person's confidential personnel file;
- Given to the individual; and
- Given to the Local Authority Designated Officer.

It should be kept at least until the person reaches normal retirement age or for 10 years if longer.

### **Monitoring progress**

The Local Authority 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 LADO meeting or direct liaison with the police, Children's Social Care, or employer, as appropriate. Where the target timescales cannot be met, the Local Authority Designated Officer should record the reasons.

The Local Authority 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 safeguarding partnership to monitor and evaluate the effectiveness of the procedures for managing allegations and provide statistical information to the Department for Education as required.

If a police investigation is to be conducted, the police should set a date for reviewing its progress and consulting the Crown Prosecution Service about continuing or closing the investigation or charging the individual. Wherever possible, this should be no later than **4 weeks** after the LADO Meeting. Dates for further reviews should also be agreed, **either fortnightly or monthly** depending on the complexity of the investigation.

## **Referral to Disclosure and Barring Service 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 or her services, the Local Authority Designated Officer should discuss with the employer whether a referral should be made to the Disclosure and Barring Service for inclusion on the Barred Lists and/or a regulatory body, e.g. the Teaching Agency or General Medical Council.

Consideration will then be given as to whether the individual should be barred from, or have conditions imposed in respect of, working with children.

If a referral is to be made, it should be submitted within one month.

### **Learning Lessons**

The employer and the Local Authority 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. Where appropriate, this should include agreement to an action plan for future practice based on lessons learnt.

A learning lessons review should include issues arising from the decision to suspend the member of staff, the duration of the suspension and whether or not suspension was justified. Lessons should also be learnt from the use of suspension when the individual is subsequently reinstated. The designated officer(s) and case manager should consider how future investigations of a similar nature could be carried out without suspending the individual. (Ref: KCSIE 2022).

### **Allegations Against Staff in their Personal Lives**

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

The Strategy Discussion should decide whether the concern justifies:

- Approaching the member of staff's employer or organiser for further information, in order to assess the level of risk; and
- Inviting the employer to a further Strategy Discussion about dealing with the possible risk; or

Who will contact the employer and who, if it is agreed will inform the member of staff of this course of action.

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 Discussion convened.

In some cases, an allegation of abuse against someone closely associated with a member of staff, e.g. partner, member of the family, or other household member, may present a risk to child(ren) for whom the member of staff is responsible. In these circumstances, a Strategy 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.