

Handling Allegations of Abuse made against those who Work with Children and Young people

Practice Guidance

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Introduction

Between September and November 2007 the Department for Children, Families and Schools carried out a 'Review of Implementation of Guidance on Handling Allegations of Abuse against those who work with Children and Young People.' One of the actions to come out of the Review was a commitment to publish supplementary practice guidance for practitioners on aspects of the allegations management processes outlined in *Working Together to Safeguard Children (2006)*¹.

This guidance applies to all employers² providing services to children and relates to all adults working with children and young people, whether in a paid or voluntary position, irrespective of individual organisational regulations, custom and practice or other guidance provided by professional bodies or associations. It is intended to assist organisations with the interpretation and application of guidance in WT concerning the management of allegations against staff.

Health, education, foster care, voluntary organisations etc..

It is not possible within a single document to differentiate between the many different providers of services to children and their related professional languages. Individual organisations or professions, therefore, may need to adapt the terminology used when applying this guidance to their own circumstances.

1.1 Focus of the guidance

It is the adult and not the child who is the focus of allegations management guidance. This is because unlike allegations against a family member, allegations against staff rarely leave individual children in continuing need of protection from the alleged abuser. However, the welfare principle³, should always be upheld and consideration given to what if any support should be provided for the child or children involved.

This guidance concerns the processes involved in assessing and investigating allegations that an adult has:

- behaved in a way that has harmed, or may have harmed a child
- possibly committed a criminal offence against, or related to a child; or
- behaved towards a child or children in a way that indicates s/he is unsuitable to work with children⁴

¹ Working Together to Safeguard Children, H.M Government, 2006 (From here on referred to as WT)

² The term employer refers to all organisations which have a working relationship with the individual against whom the allegation is made. This includes organisations that use the services of volunteers, or the self employed as well as service providers, voluntary organisations, agency or contracted staff, fostering services and regulatory bodies such as OfSTED in the case of child minders

³ The Welfare Principle: The Welfare of the Child is Paramount – Children Act 1989

⁴ Working Together to Safeguard Children Appendix 5 p239

Roles and Responsibilities

Listed below are the general responsibilities of the three key roles outlined in *Working Together*; the Named Senior Officer (NSO), the Local Authority Designated Officer (LADO) and the Senior Manager (SM).

2.1 Named Senior Officer (NSO)

All LSCB member organisations should have a named senior officer with *overall* responsibility for:

- Ensuring that their organisation operates procedures for dealing with allegations in accordance with the guidance in Appendix 5 of *Working Together*;
- Resolving any inter-agency issues and
- Liaising with the LSCB on the subject.

Responsibilities include:

- Ensuring that their organisation complies with the standards identified and agreed by the LSCB for managing allegations as outlined within the *'Working Together to Safeguard Children' (2006)*.
- Ensuring that LSCB procedures for managing allegations are reflected and implemented within their own agency procedures.
- Ensuring that the workforce is aware of and implements the procedures in relation to all allegations against adults who work with or on behalf of children.
- Ensuring that the organisation has systems in place to review cases and identify and implement any changes therefore improving procedures and practice.
- Resolving any inter-agency issues which impede the implementation of LSCB procedures.
- Ensuring that the key roles of 'Named Senior Officer', 'Local Authority Designated Officer' and 'Senior Manager' (employer) are reflected in their agency policy and procedures.
- Ensuring that effective reporting and recording arrangements within their agencies are in place and that contact details for the LADO and the organisation's Senior Manager are available.

Meeting these responsibilities will require:

- A strategic lead
- Access to up to date and relevant information regarding the management of allegations.

2.2 Local Authority Designated Officer (LADO)

This role relates to the management and oversight of individual cases:

- Providing advice and guidance to employers and voluntary organisations;
- Liaising with the police;
- Monitoring the progress of cases to ensure that they are dealt with as quickly and consistently as possible through the use of a fair and thorough process.

Responsibilities include:

- Management and oversight of individual cases from all partner agencies of the LSCB if allegation meets the thresholds set out in paragraph 1, Appendix 5 of WT.
- Providing advice, information and guidance to Senior Managers (see description of SM role below)
- Monitoring the progress of cases to ensure cases are dealt with within set timescales as specified in WT.
- Ensuring a consistent and thorough process for all adults working with children and young people against whom allegations are made.
- Responsibility for maintaining information databases in relation to all allegations and producing qualitative and quantitative reports for LSCBs and the DCSF.
- Attendance at initial evaluation meetings, strategy meetings and liaising with chairs of strategy meetings (if not chairing personally).
- Contributing to LSCB training programmes and awareness-raising across the Children's Workforce.
- Providing assistance to agencies in the discussion regarding suspension (see 'Use of Suspension' [page X](#)).
- Liaising with the Police and the Crown Prosecution Service.
- Discussing with the SM the possibility of referral to the Protection of Children Act or to the appropriate regulatory body.
- Co-ordinating and collating reports to provide information to the LSCB and the DCSF.

Meeting these responsibilities will require:

- A working mandate from the LSCB.
- Sufficient status to liaise with the SM and NSO.
- Access to database programmes.
- Appropriate administration support.

It is critical that the relationship between the LADO and the Senior Manager is clear to all LSCB member organisations. The LADO is independent of the organisation and in discussion with the Senior Manager should establish whether the allegation fits the criteria as set out in WT appendix 5, paragraph 1:

Where it is alleged that a person who works with children has:

- 1) behaved in a way that has harmed a child, or may have harmed a child;
- 2) possibly committed a criminal offence against or related to a child; or
- 3) behaved towards a child or children in a way that indicates he/she is unsuitable to work with children.

WT also states that: *'it is important to ensure that even apparently less serious allegations are seen to be followed up, and that they are examined objectively by someone independent of the organisation concerned.'* (WT 2006 App 5 Para 13)

The LADO should, therefore, be informed of all allegations that come to the Senior Manager's attention, in order that the available information can be jointly evaluated. A decision on whether there is a need for immediate referral will be taken by the LADO.

Different approaches to the LADO role

As long as the responsibilities associated with the LADO role are carried out, and it is clear who the LADO contacts are for the area, it is fine for the LA to decide how best to divide up the work.

Some examples of different approaches taken:

North-west

In one Authority, the LADO is a half time post which has moved from the Social Care team to be placed in the Quality Assurance team. This was to convey to member agencies that the post was a multi-agency role and not one which was attached to social care.

In another Authority, the LADO post has only just been established but they are considering whether the post holder should sit with the LSCB Business Manager and Trainer. In other authorities, the more usual arrangements are in place with the LADO sitting in the Safeguarding team within Children's Services.

South-west

A couple of large shire counties in the south west initially identified one LADO for the whole county, but soon realised that managing referrals on a county-wide basis with limited time and resources was problematical and so they now have several locality based LADOs co-ordinated by the Named Senior Officer in the LA.

Where aspects of children's services re-organisation coincided with the implementation of the LADO role, 2 LAs allocated the LADO role to Education Safeguarding Officers, who already had significant experience of managing allegations in schools, at the same time as their integration into newly formed Safeguarding Units.

2.3 Senior Manager within the organisation (SM)

The Senior Manager within the organisation has *overall* responsibility for:

- Ensuring procedures are properly applied and implemented.
- Providing advice, information and guidance for staff within the organisation.
- Being the senior manager within the organisation to whom all allegations or concerns are reported.

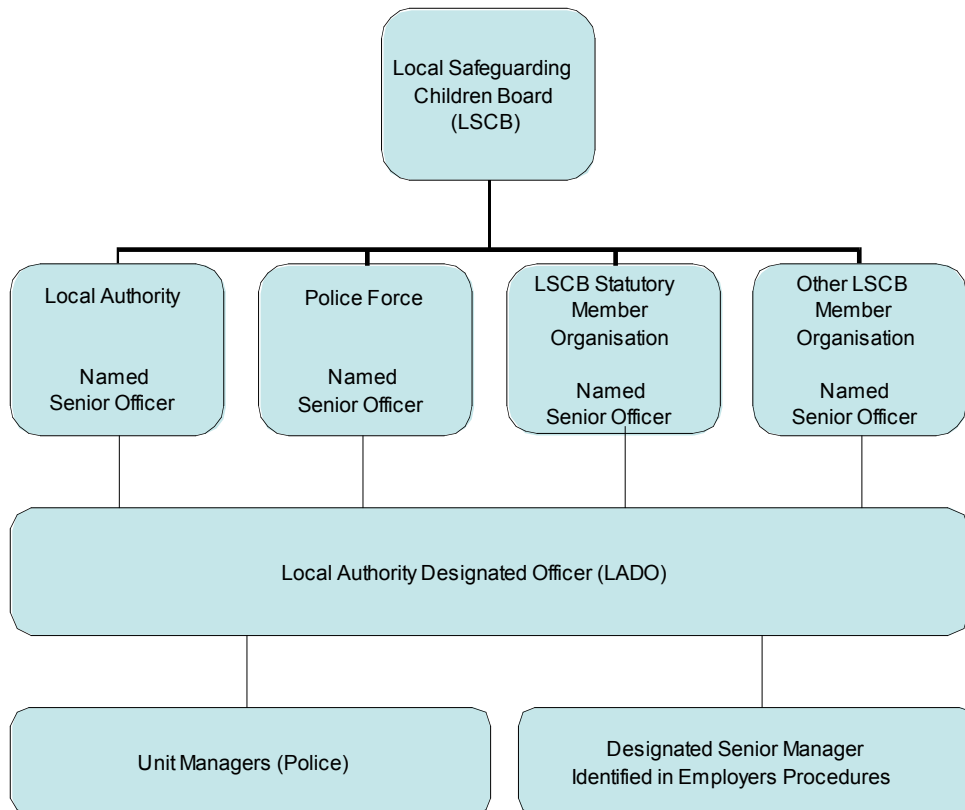
Responsibilities include:

- Ensuring all staff are aware of and understand safe working practice.
- Ensuring appropriate and relevant training programmes are in place for all and accessed by all staff.
- Referring allegations in accordance with the LSCB's procedures.
- Gathering any additional information which may have a bearing on the allegation e.g. previously known concerns, care and control incidents, etc.
- Providing the subject of the allegation with information and advise them to inform their union or professional body.
- Should the allegation be unfounded, consideration needs to be given to a referral through to social care for support or to the police if the allegation is deemed to be deliberately malicious or invented.
- Attending strategy meetings when required.
- Liaising with Human Resources where employer's disciplinary action is required.
- Ensuring that risk assessments are undertaken where and when required.
- Ensuring that effective reporting and recording systems are in place which allow for the tracking of allegations through to the final outcome.
- Undertaking appropriate checks with data that the agency may hold.
- Providing reports and information as required by the Named Senior Officer (NSO).
- Raising awareness of the need to empower children and young people who are in vulnerable situations by ensuring their agencies produce effective whistle-blowing and complaints procedures for all children.
- Ensuring relevant support programmes are in place for staff, parents and young people.

Meeting these responsibilities will require;

- Understanding of the LSCB procedures for managing allegations against adults who work with or on behalf of children and young people.
- Training in procedural matters.
- Access to a recording and monitoring system.
- Access to advice and guidance from 'someone independent of the organisation.' (WT 2006 Para 13, Appendix 5).

2.4 Structure for supporting the management of allegations of abuse against staff and volunteers



Process

All staff involved in the management of allegations should be familiar with the process which must be followed for considering information arising from an allegations or concern about the behaviour of an adult working with children. This can be found in Appendix 5 of *Working Together*.

3.1 When to use the process

Employers and managers should be familiar with the scope of the process and understand that the management of allegations starts in all cases in which it is possible that an adult working with children may have:

- 1) behaved in a way that has harmed a child, or may have harmed a child;
- 2) possibly committed a criminal offence against or related to a child; or
- 3) behaved towards a child or children in a way that indicates he/she is unsuitable to work with children.

The procedures allow for consideration of the adult's behaviour at the earliest opportunity when a concern or allegation arises and is brought to the manager/employer's attention. The information should be shared with the

LADO who, together with the employer or Senior Manager will consider the nature, circumstances and context of the allegation or concern and decide if it appears to fit with one of the three criteria above.

This initial sharing of information and evaluation may lead to a decision that no further action is to be taken, but in some cases further consultation by the LADO will take place. The LADO may wish to consult with:

- Police colleagues in order to decide whether a criminal offence has been committed;
- Social care colleagues and the police in order to arrange a strategy meeting under child protection procedures if it is believed that a child may have suffered **significant** harm and;
- Social care and police colleagues to seek clarification on whether a child has been **harmed**. (It should be noted that the use of the term “harm” within WT procedures for the management of allegations signifies that this is a lower level of concern than on those occasions when child protection enquiries are initiated because there is reasonable cause to suspect that a child has suffered or may have suffered significant harm.)
- If, following consultation it is decided that the allegation does not meet any of the criteria above, then it may be dealt with by the employer at organisational level.

The process which follows the initial consultation with the LADO is made clear in Appendix 5 of WT which explains that the LADO will retain overall management of the process, (including the monitoring of cases which have been referred back to the employer for internal resolution) until the case reaches its conclusion and will ensure that accurate records are kept.

Information-sharing

Information sharing is vital to safeguarding and promoting the welfare of children and young people. From the initial evaluation of an allegation and throughout the duration of any resulting investigation the employer and the statutory agencies concerned should share all relevant information⁵ they have about the person who is the subject of the allegation, and about the alleged victim.

The Data Protection Act and the Human Rights Act are the two main legislative frameworks governing how, what and in what circumstances

⁵ For detailed guidance, see ;Sharing Information: Practitioners Guide, www.everychildmatters.gov.uk

information may be shared.

However, disclosure of information to safeguard children is supported by the Children Act 1989 and WT and is can be supported by application of the welfare principle. Additionally, there are clauses within both the Data Protection and Human Rights legislation which allow for information to be shared:

- for the protection of health and morals
- for the protection of the rights and freedoms of others
- for the prevention and detection of crime

Disclosure of any confidential information should always be:

- appropriate for the purpose
- only to the extent necessary to achieve that purpose

4.1 Informing the individual

The person who is the subject of the allegation should generally be informed of the allegation at the *earliest* opportunity, however, the possible risk of harm to children posed by an accused person needs to be effectively evaluated and managed. In determining when to inform the individual, consideration should be given to any potential risks to the child involved in the allegations, or to any other children connected to the individual's home, work or community life.

Consideration should also be given to the potential for the individual to impede any investigation, remove or interfere with evidence or to intimidate or coerce potential witnesses. In some cases this will require the employer to delay informing the individual in order to agree the timing with relevant colleagues from police and social care.

4.2 Informing parents and children

In some circumstances the employer may need to advise parents of an incident involving their child straight away, for example if the child has been injured and requires medical treatment. In other circumstances the parents or carers of a child or children involved should be told about the allegation as soon as possible and the employer should discuss with the LADO how and by whom they should be informed.

4.3 Confidentiality and information management

Every effort should be made to maintain confidentiality and guard against unwanted publicity while an allegation is being considered or investigated. The employer's press office where they have one should be consulted and the organisation should take advice from police and social care, to agree an information management strategy.

This should include:

- Who needs to know and importantly exactly what 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
- How to manage press interest if and when it should arise

Information about the child or family should not be shared with the individual against whom the allegation was made or anyone representing them.

4.4 Sharing information arising from the investigation

Where the case involves police investigation, the police should obtain consent at the outset from the individuals concerned to share the statements and evidence they obtain with the employer for disciplinary purposes.⁶ Police will then be able, at the conclusion of any formal or judicial process to provide the employer with relevant information to assist them with their internal disciplinary investigations. Children’s social care should adopt a similar procedure so that any information obtained in the course of their enquiries relevant to a disciplinary case can be passed to the employer without delay.

Agreeing on confidentiality at meetings

In allegation management it is vital to maintain confidentiality for the family and the staff member. Some LAs have an agreed “need to know” approach to information-sharing that is set out in a protocol. Alternatively, using a set agenda for strategy meetings which includes consideration of confidentiality and support services for family and members of staff can be a good way of ensuring the need for confidentiality is discussed for every case.

In all cases, the matter will at some point be referred back to the employer for internal investigation. Information gathered from discussions, evaluations, meetings etc will be shared with the employer to aid their investigations. In some cases this will be because the initial considerations have concluded that there is no criminal element to pursue, in other cases it will be because the police or crown prosecution service determines that a prosecution may not be appropriate for the best interests of the child. It should be referred back if the evidence is deemed insufficient to support a conviction; or it may be re-referred at the conclusion of legal proceedings. Parents should be kept informed about the progress of the case, and they should be made aware of the outcome of any disciplinary process⁷.

Internal disciplinary investigation

In all cases it is the duty of the employer to satisfy themselves about any risks that the employee may pose to children.

4.5 Further Guidance

⁶ Sussex Police proforma can be found as appendix.....

⁷ Parents are not entitled to know the details of the evidence heard or the deliberations of the disciplinary panel, but they are entitled to know the outcome

There is an example information sharing protocol attached at appendix B of this document, **[DN – to be added]**. This was drawn up by a local authority in the South-East and may be useful for clarifying information sharing practice in your local authority.

Further guidance on information sharing can be found in a document called: *Information sharing: Practitioners' guide* (April 2006).

An electronic copy can be found on the Every Child Matters website at:

<http://www.everychildmatters.gov.uk/deliveringservices/informationsharing/>

Record Keeping

Record keeping is an integral part of the management of allegations. Complete and accurate records will contain information which provides comprehensive details of:

- Events leading to the allegation or concern about an adult's behaviour
- The circumstances and context of the allegation
- Professional opinions
- Decisions made and the reasons for them
- Action that is taken
- Final outcome

5.1 Guidance on record-keeping

Employers, managers and officers who are involved in the process of managing allegations should follow the principles of record-keeping contained within the Data Protection Act 1988, the Human Rights Act 1998 and the Freedom of Information Act 2002. Further advice and guidance on the employment practice code can be found at the Information Commissioner's office website at: www.ico.gov.uk

Employers must also have regard to the ACAs Code of Practice for Discipline and Grievance – www.acas.gov.uk

It is important for those keeping records of allegations against adults who work with children to remember that the guidance contained within part one of '*Working Together to Safeguard Children*' is statutory⁸. By following this guidance which allows for accurate records to be retained, the employer's duty to safeguard children is upheld. *Working Together* states:

"It is important that employers keep a clear and comprehensive

⁸ Page 140 WT (2006)

summary of any allegations made, details of how the allegations were followed up and resolved and of any action taken and decisions reached. These should be kept in a person's confidential personnel file and a copy should be given to the individual. Such information should be retained on file, including for people who leave the organisation, at least until the person reaches normal retirement age, or for 10 years if that is longer. "

Working Together states that purpose of record-keeping is to;

- Enable accurate information to be given in response to any future request for a reference.
- Provide clarification in cases where a future CRB disclosure reveals information from the police that an allegation was made but did not result in a prosecution or conviction.
- Prevent unnecessary re-investigation if an allegation resurfaces after a period of time.

Accurate record keeping and retention also allows for patterns of behaviour which may pose a risk to children to be identified.

Throughout the process of managing an allegation it is important that a clear chronology of all discussion and actions is maintained by both the LADO and the senior manager or employer.

The chronology should start when the senior manager contacts the LADO for an initial consultation about an adult working with children.

5.2 The minimum information to be recorded by both professionals at the time of initial contact with the LADO:

Senior Manager in Organisation (Employer)	Local Authority Designated Officer (LADO)
<p>Staff Member or Volunteer</p> <ul style="list-style-type: none"> ▪ Name ▪ Date of Birth ▪ Address ▪ Title of Job ▪ Employment Status ▪ Any previous concerns <p>Allegation or Concern</p> <ul style="list-style-type: none"> ▪ Nature ▪ Date ▪ Time ▪ Location ▪ Details of witnesses <p>Child or Young Person</p> <ul style="list-style-type: none"> ▪ Name ▪ Date of Birth ▪ Gender <p>Details of colleagues consulted</p> <ul style="list-style-type: none"> ▪ LADO ▪ Human Resources <p>Decisions and action taken</p> <p>Information provided to adult subject of the concern</p> <p>Date</p> <p>Signature</p>	<p>Staff Member or Volunteer</p> <ul style="list-style-type: none"> ▪ Initials ▪ Date of Birth ▪ Agency ▪ Title of Job ▪ Any previous concerns <p>Allegation or Concern</p> <ul style="list-style-type: none"> ▪ Nature ▪ Date ▪ Time ▪ Location <p>Advice Given</p> <p>Action to be Taken by organisation's senior manager</p> <p>Date</p> <p>Signature</p>

In those cases where the professional judgement of those involved in the initial consideration of the allegation or concern is such that further investigation is necessary or advisable, the record should be extended to contain the following information:

5.3 Minimum information for consideration

Senior Manager in Organisation (Employer)	Local Authority Designated Officer (LADO)
<p>-----</p> <p>Process</p> <ul style="list-style-type: none"> ▪ Summary of meetings ▪ Decisions reached ▪ Any disciplinary action taken ▪ Outcomes 	<ul style="list-style-type: none"> ▪ Name, address and date of birth of adult ▪ Scope of adult’s contact with children ▪ Details of relevant policies and procedures in place within the adult’s place of work ▪ Details of training received by the adult on expected behaviour <p>Process</p> <ul style="list-style-type: none"> ▪ Notes of meetings ▪ Decisions reached ▪ Outcomes

If, at the end of the process, the employer is dismissed, resigns, or in the case of a volunteer or supply worker, the organisation ceases to use the adult’s services, the employer must make a referral to the DCSF/ISA and must enclose with the referral full details of all the records kept during the process.

See chapter 9 on ‘Making a Referral to the Department’ **on page X.**

Management of Meetings

6.1 Initial Consideration

The purpose of an initial consideration is for the LADO, together with the Senior Manager, to decide together whether the information received constitutes an allegation i.e. whether it meets one or more of the thresholds for dealing with it under allegations management procedures as referenced on **page X** of this practice guidance.

Depending on the level of detail of information received it may not be immediately obvious that an incident or concern constitutes an allegation. It is important that as many facts as possible can be established at this stage without conducting further investigation which might compromise future action which may need to be taken by Police or Social Care. In accordance with procedures, the LADO should always be consulted before any further action is taken. This initial consideration by the Senior Manager and LADO should comply with local procedures.

The Senior Manager and LADO together should consider the nature and content of the allegation and the Senior Manager should be asked to provide any additional information which may be relevant, such as previous concerns or allegations, and whether the child/family have made similar allegations. The discussion should then focus on whether the information meets agreed thresholds to hold a strategy meeting under child protection procedures.⁹

If the information given about an adult's behaviour does not require a strategy meeting under Section 47, a similar meeting should be called to jointly evaluate the level of concern and to determine whether the person's suitability to continue working with children in his or her current position has been called into question.

A written record of this discussion and the agreed outcomes should be made by the LADO and shared with the senior manager.

Cross-authority working

An allegation should be reported by the Senior Manager to the LADO who covers the local authority area in which the organisation is placed. If the member of staff or the child live in different areas from the one in which the incident took place, then those area representatives should be invited to attend or to contribute to any discussions. The LADO for the area where the organisation is, (where the allegation was made) should hold the monitoring responsibility.

⁹ Section 47 of the Children Act 1989 places a duty on every local authority to make enquiries when it has reasonable cause to suspect that a child who lives, or is found, in their area is suffering, or is likely to suffer significant harm.

6.2 Strategy Meeting

If from the information received, the LADO decides that the threshold for harm has been met or that a criminal act has taken place or that the person's behaviour may be unsuitable, he or she will organise a strategy meeting. Although the initial consideration (see 6.1) of an allegation can take the form of a quick telephone call to the LADO, it is advisable that if, following, a strategy discussion is decided on, then it should take the form of a face-to-face meeting wherever possible. It is important that the employer is represented. Other than in exceptional cases, this would normally be the Senior Manager and should include a representative from the employer's HR service (where applicable). It is also recommended that Police, Social Care and any other agencies or organisations involved should be present.

The strategy discussion should:

- Share all relevant information about the allegation in question.
- Discuss any previous allegations or other concerns.
- Review the need for involvement of children's social care or the police.
- Consider whether the person's suitability to continue working with children in his or her current position has been called into question.
- Plan any enquiries needed, allocate tasks and set timescales.
- Identify a lead contact manager within each agency.
- Decide what information can be shared with whom and when.
- Agree timescales for actions and/or dates for further meetings.
- Consider what advice and support should be made available to the member of staff and child/family.
- Consider any other factors that may affect the management of the case e.g. media interest / managing confidentiality.

Those invited to participate in the strategy meeting are advised to bring all relevant information including:

- Relevant details of the employee and the child and their family.
- Information and contact details of any possible witnesses.
- Any other relevant concerns or employment issues regarding the employee.

Strategy meeting – minimising delays

If the arranged strategy meeting has all the relevant agencies round the table, then once you've discussed the child's needs, the second part of the meeting (or a second consecutive meeting, allowing people to leave) could be used to also discuss what should happen to the alleged member of staff, rather than setting up a separate meeting for this at a later date.

6.3 Minutes

It is important that comprehensive minutes are taken of all the discussions and agreed outcomes. Consideration should be given to who is the most appropriate person to take minutes of the meeting. Where possible it would be advisable for the minute-taker to be independent of the discussion and able to co-ordinate distribution of the minutes. This would avoid the possibility of aspects of the discussion not being fully recorded.

The chair should decide to whom the minutes should be distributed. This should include participants in the strategy meeting and those invited but not attending. All parties should be reminded of the need to maintain confidentiality in accordance with local and national procedures and guidance

Definitions of Allegations

7.1 Dealing with false, unfounded, malicious and unsubstantiated allegations.

Complaints and allegations against members of staff should always be viewed objectively. The circumstances leading up to the complaint can often be complicated and the outcome far from certain. False allegations are rare, but such descriptions, along with terms such as unfounded, unsubstantiated and malicious are often used in the same context. The meanings, however, are very different and it is important for staff to understand the distinction between them and avoid using generalisations that might be incorrect or misleading.

Unsubstantiated

An unsubstantiated allegation means that there is **insufficient identifiable evidence to prove or disprove the allegation**. The term, therefore, does not imply guilt or innocence.

Unfounded

The term 'unfounded' means that **there is no proper basis on which an allegation is made**. The allegation may be false (see below), but it might also indicate that the person making the allegation had misinterpreted the incident or was mistaken about what he/she saw, or was not aware of all the circumstances.

False

This refers to an unfounded allegation that has been made with a deliberate intention to deceive. A false allegation, therefore, would not include an allegation resulting from misinterpretation or a mistake. Care should be taken in dealing with such allegations as they may not be false in their entirety. Some parts of an allegation may have been fabricated or exaggerated but elements may be based on truth.

Malicious

The term 'malicious' implies that an allegation is false, either wholly or in part, and that it has been made with **a deliberate intent to cause harm** to the person subject to the allegation.

For an allegation to be classified as malicious, it will be necessary to have evidence to prove the intention to cause harm.

Great care should be taken in dealing with allegations that might appear to be false, unfounded or malicious. Assumptions should not be made because there may be an underlying reason(s) for the allegation being made. For example, with false allegations:

- A child or young person may make a false allegation in an attempt to draw attention to abuse emanating from another source within his/her family or community.
- A parent may make a false allegation against a nursery worker in an attempt to evade responsibility for an injury to his/her child.
- A pupil may make a false allegation against a teacher in order to deflect attention away from an incident of behaviour management.
- A parent, in dispute with a school, may make a false allegation against a member of staff in order to strengthen their case.

Malicious allegation:

- A colleague may make a malicious allegation in an attempt to discredit a member of staff.

Use of Suspension

Working Together states that suspension should be considered in every 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

Suspension should not be seen as an automatic response to an allegation or imposed as a 'knee jerk action'. A decision to suspend without careful thought could impede a police investigation (see case study X below). In some cases it will not be immediately obvious that suspension is appropriate and this course of action may only become clear after information is shared with, and discussion had, with other agencies and the employer's Human Resources provider.

The power to suspend rests with the employer¹⁰ alone and it cannot be required by another agency, although the employer should have regard to the views of investigative agencies if involved.

Case study X – Suspension impeding police investigation

A teacher was reported to possess indecent photographs of children. The Head made the decision to suspend the teacher without consulting the LADO or other agencies. The teacher went home and destroyed all the evidence, damaging the chances of a subsequent conviction. If the LADO had been involved in the initial decision, he or she would have considered the need for police involvement and acted accordingly.

8.1 Assessment of Risk

When considering suspension, the Senior Manager, together with the LADO and other agencies as appropriate, should make an assessment using the three criteria above.

In making their assessment, they should consider the following five factors:

- The nature of the allegation and the context in which it occurred
- The member of staff's level of contact with children
- Previous history (for both child and employee)
- Views of other agencies (e.g. police, children's social care)
- Alternatives to suspension

- Nature and context of the allegation

¹⁰ In maintained schools and colleges, the Head teacher/Principal can suspend any member of staff and the governing body can suspend the Head teacher/Principal

The senior manager and LADO should consider the nature of the allegation, both in terms of misconduct and also whether it constitutes sexual, physical or emotional abuse or neglect or a combination of these.

- Contact with children

The senior manager and LADO should have regard to the level of contact that the member of staff has with children during the course of their duties and whether this presents either an unacceptable level of risk or whether this can be managed effectively e.g. working with an assistant or other colleague.

- Previous history

If there is information that the child concerned has made previous unsubstantiated, unfounded allegations or false allegations, the senior manager and LADO should be careful not to assume that the allegation is false or without foundation on this occasion. Similarly, where the member of staff has been the subject of previous allegations, it should not be assumed that they therefore present a higher level of risk unless there is an indication that previous advice or warnings have been disregarded or it points to a pattern of concerning behaviour.

- Views of other agencies

If the nature of the allegation is such that an interagency strategy discussion is held, the LADO should canvass the views of police and/or children's social care as to whether the member of staff should be suspended from contact with children. The employer should have regard to these views in reaching a decision about suspension.

- Alternatives to suspension

While weighing the factors as to whether suspension is necessary, alternatives to suspension should be considered if available and deemed suitable. This may be achieved by:

- The individual undertaking duties which do not involve direct contact with the child concerned or other children e.g. office work
- Providing an assistant/colleague to be present when the worker has contact with children

It may be appropriate to use an alternative to suspension when an allegation is first made. This would allow time for an informed decision regarding suspension to be made and possibly reduce the initial impact of the allegation.

8.2 An interview to consider suspension

Where suspension is being considered, an interview with the member of staff should be arranged. Where police are involved in a criminal investigation, this interview should not be conducted without prior consultation with the officer in charge of the case.

The member of staff should be advised to seek the advice and assistance of his or her trade union, or a friend if s/he is not a member, and offered the

opportunity of a brief meeting with the representative or friend before the interview.

The member of staff should be given as much information, including the reasons for any proposed suspension, as is consistent with not interfering with an investigation about the allegation. If it is considered that suspension is necessary, the individual should be advised that he or she is suspended from duty. Written confirmation should be dispatched within one working day, giving the reasons for the suspension.

8.3 Support

Any member of staff subject to an allegation, regardless of any decision to suspend or otherwise, should be supported throughout the process via occupational health or employee welfare arrangements where these are available. S/he should also be encouraged to seek advice and support at the earliest opportunity from their professional association or trade union if s/he is a member.

If suspended, the member of staff, or his/her representative, should be given the name of a contact person who should then keep him/her up to date regarding the progress of the case. The need for help and support is equally applicable when considering a suspended person's return to work.

Support and Aftercare

It is important for employers to take into account the emotional effects that allegation investigations can sometimes bring to a workplace (regardless of the outcome or whether staff are involved or not) and for those organisations that do not have good HR / aftercare to consider that staff may have unresolved feelings and will need support.

8.4 Confidentiality

The employer and LADO have a responsibility to safeguard confidentiality as far as is possible. Sensitive information must only be disclosed on a need to know basis, to other professionals involved in the investigative process. Confidentiality will be maintained by those professionals dealing with the allegation, but if other people become aware of the allegation, they may not feel bound to maintain confidentiality. Therefore consideration should be given as to how best to manage this, particularly in relation to who should be told, what information can be disclosed, when and how.

The employer should consider carefully, and keep under review, decisions as to who else should be informed of the suspension and investigation e.g. senior members of staff, and to what extent confidentiality can or should be maintained according to the circumstances of a particular case. The LADO should seek advice from the police and children's social care if involved.

8.5 Supply workers and volunteers

With regard to supply workers, it would be good practice for the Senior Manager of the organisation to apply the principles of suspension and associated support, wherever possible. Any decision to stop using the services of a supply worker should not be influenced by his /her potential loss of pay.

When the services of agency staff are suspended, that agency should be involved with, and contribute to the risk assessment of the worker continuing to work with children in another position.

The principles of suspension and support also apply to volunteers.

After dismissal or resignation due to unsuitability to work with children

Employers should note that at the end of the investigation, any decision made to stop using the services of a supply worker or volunteer because of misconduct or unsuitability to work with children, will necessitate a **referral to the DCSF** for consideration of barring. In the case of childcare organisations, a referral should also be made when an individual is suspended on the grounds of misconduct. ¹ (see chapter 8 on 'Making a Referral to the DCSF').

8.6 Record Keeping

The employer should maintain a record of the decisions reached regarding suspension, who was involved in making those decisions, the rationale behind them, and details of any action taken.

Making a Referral to the Department

9.1 Referral to DCSF Safeguarding Children Operations Unit

Detailed information concerning the reporting of individuals to the Secretary of State is contained in Annex 10 of the DCSF guidance document '*Safeguarding Children and Safer Recruitment in Education.*'

Where relevant employers have ceased to use a person's services for reasons of misconduct where there has been harm or risk of harm to a child or because of a medical condition that raises a possibility of risk to the safety or welfare of children they are **required** to supply information to the Department for Children Schools and Families or, from late 2008, the

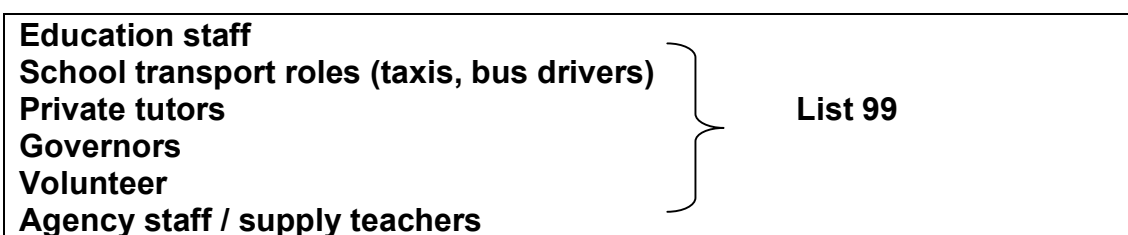
Independent Safeguarding Authority.¹¹

The employer is similarly **required** to supply information about the disciplinary process if the person resigns (or withdraws their voluntary services) before the process has been completed. It will therefore be necessary, in those cases, for the disciplinary investigation to continue to conclusion. If a case for a disciplinary hearing is established, a disciplinary panel should convene and reach a decision about what disciplinary sanction would have been imposed had the person not ceased to provide their services or whether, in the case of a volunteer, the organisation would have discontinued to use their services.

9.2 List 99 and PoCA

There are currently two children’s barring lists: List 99 and the Protection of Children Act (PoCA) list.

List 99 contains the names and personal details of education staff and others who are barred or restricted from providing education or carrying out work, including voluntary work, that involves regular contact with children under the age of 18 in or for a school, a local education authority or a further education institution.



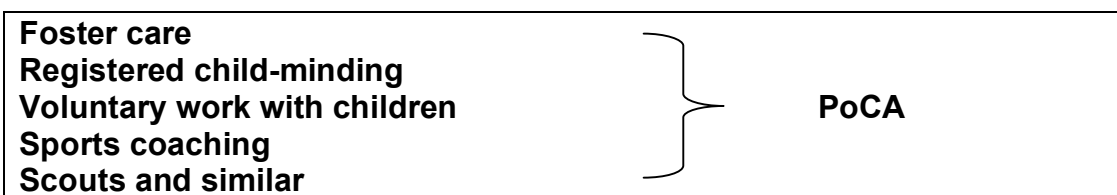
The Protection of Children Act (PoCA) list covers all regulated child care organisations (including children’s homes, foster carers, and child-care settings). The PoCA legislation also permits - but does not require - other organisations, such as voluntary organisations, sports clubs and scout associations to refer names for possible inclusion in the PoCA list. The Act sets out the circumstances where a child care organisation must, and other organisations may, refer names to the Secretary of State for consideration of inclusion in the PoCA List. These are:

- (a) that the organisation has dismissed the individual on the grounds of misconduct (whether or not in the course of his employment) which harmed a child or placed a child at risk of harm, or
- (b) that the individual has resigned or retired in circumstances such that the organisation would have dismissed him, or would have considered dismissing him, on such grounds if he had not resigned or retired, or

¹¹ Independent Safeguarding Authority set up under the Safeguarding Vulnerable Groups Act 2006. The ISA will issue further information nearer to when it takes on the barring role.

(c) that the organisation has, on such grounds, transferred the individual to a position within the organisation which is not a child care position, or

(d) that the organisation has, on such grounds, suspended the individual or provisionally transferred him (to a position) as in (c) above, but has not yet decided whether to dismiss him or to confirm the transfer (e.g. the organisation may have suspended or transferred on a neutral basis whilst an investigation is undertaken).



9.3 Decision to make a referral

If after investigation, employers have ceased to use a person’s services for reasons of misconduct or because they consider that person to be unsuitable to work with children then there is a **statutory duty** on the employer to make a referral. This is regardless of how much evidence there is, or whether the employer or LADO feel that the case is likely or unlikely to result in the individual being barred from working with children.

9.4 Who should make the referral?

- **Employers in the education service** have a statutory duty to make a report to the Department if they cease to use a person’s services, in other words dismiss them from work as a teacher or in a role involving regular contact with children, on grounds that the person has committed misconduct which harmed a child or placed at risk of harm a child , on grounds relating to their misconduct (for example if they falsely claim qualifications they haven’t got), on grounds relating to the person’s health, where this raises an issue relating to the safety and welfare of children (for example if someone is suffering from a mental illness that might make them behave aggressively or violently).
- **All registered childcare organisations** have a statutory duty to refer names of those individuals that occupied a child care position that they consider to be guilty of misconduct which harmed or placed at risk of harm a child.
- **Any other organisation *may refer names*** for possible inclusion on the PoCA list.

LADO and LSCB responsibilities

The LADO has a responsibility to ‘monitor allegations through to conclusion’, which includes ensuring that employers/agencies have made referrals where appropriate, and recording the outcome of the referral. (WT **xx**)

The LSCB has a responsibility to establish effective policies and procedures, based on national guidance, for checking the suitability of people applying for work with children, and ensure that the children’s workforce is properly supervised, with any concerns acted on appropriately.’ (WT, page 79, 3.25)

9.5 How to make a referral

It is important that full information about the behaviour of the person and how the judgement of the panel was informed is given to the Department. The referral form, together with attached notes of meetings and details gained from the disciplinary investigation, should be completed and sent to the Safeguarding Children Operations Unit. A copy of the referral form can be found **on page X** of this document. Reports should be made promptly, preferably within a month of the person’s dismissal or resignation.

The Secretary of State will consider the information supplied and reach a decision about whether to include the person’s name on a list that prevents or places restrictions upon the person working with children. Before reaching a decision, the Secretary of State will seek to offer the individual the opportunity to put forward his/her own account and make available to him/her, on request, all the information on which the decision will be based.

Additionally, employers should be aware that Government has prescribed criminal behaviours which automatically render individuals unsuitable to work with children and young people.

Further Information

Achieving Best Evidence in Criminal Proceedings: Guidance for Vulnerable or Intimidated Witnesses, including Children (2001)

www.homeoffice.gov.uk/documents/achieving-best-evidence/

Working Together to Safeguard Children (2006)

www.everychildmatters.gov.uk/socialcare/safeguarding/workingtogether/

Safeguarding Children and Safer Recruitment in Education (2006)

<http://www.everychildmatters.gov.uk/search/IG00175/>

Children Act 1989. London: HMSO

http://www.opsi.gov.uk/acts/acts1989/Ukpga_19890041_en_1.htm

Children Act 2004. London: HMSO

http://www.opsi.gov.uk/acts/acts2004/ukpga_20040031_en_1

Data Protection Act 1998. London:HMSO.

Website: www.opsi.gov.uk/ACTS/acts1998/19980029.htm

HM Government (2006c). Information Sharing: Practitioners' guide. London: Department for Education and Skills.

Website: www.everychildmatters.gov.uk/information_sharing

The Protection of Children Act 1999. A Practical Guide for all Organisations Working with Children; Child Protection.

<http://publications.teachernet.gov.uk/eOrderingDownload/PoCA.doc>

Procedures for Barring or Restricting People Working with Children in Education

www.teachernet.gov.uk/docbank/index.cfm?id=4778

Appendix A – Referral Form

department for
children, schools and families

Referral to Children’s Safeguarding Operations Unit (CSOU) for inclusion on Protection of Children List (POCA) or List 99

C O N F I D E N T I A L

The Secretary of State has powers under the Protection of Children Act 1999 to prevent individuals from working with children and young people. Child care organisations have a statutory duty to refer (and any other organisations have a power to refer) where an individual is dismissed for misconduct which harmed a child or placed a child at risk or harm; or resigns, retires, is made redundant or is transferred to a position which is not a child care position in such circumstances.

The Secretary of State has powers under the Education Act 2002, to prevent individuals working with children and young people. Relevant employers and agents have a statutory duty to refer individuals to the Department for consideration by the Secretary of State if they are dismissed for misconduct, unsuitability to work with children or on health grounds (where an issue concerning the safety or welfare of children is raised) or resign in circumstances where such a dismissal may otherwise have been considered.

When referring an individual to the Department, please ensure that all relevant documents are enclosed to avoid unnecessary delay. Please note that the referred individual is likely to see any information that you share with us.

October 2007

1. Details of Adult referred to CSOU	Surname	Date of Birth
	Title	N.I. Number
	First Name	DCSF Registration No. (where applicable)
	Any known previous or other name:	Contact Details Tel: Mobile:
	Current Address	Any known previous address:

2. Employer¹² or Referring Agency	Name of Employer/Referring Agency	Address:
	First contact	Name
Second Contact	Position	
	Name	Contact details
	Position	

¹² The body which contracts or provides the paid or unpaid services of an individual regardless of whether this arrangement has been specified as a contractual arrangement

<p>3.</p> <p>Current Situation</p>	<p><i>Please indicate the whereabouts of the person concerned, if known, and their employment status, e.g. whether they have resigned, been suspended, dismissed or retired.</i></p> <p><i>Please enclose any copies of dismissal /suspension /resignation letters or copy of compromise agreements and any other relevant details.</i></p>
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<p>4.</p> <p>Reason for Referral</p>	<p>Behaviour deemed to pose risk to child – Yes /No <i>Details:</i></p> <p>Other reason – Yes/No <i>Details:</i></p>
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5.

Employment details of adult being referred to CSOU

a) Position held and length of time in current post:

Please attach copy of job description, application form and references

b) Any previous positions held with current employer:

c) Details of any induction or training programmes

Please provide copies of any training programme where possible

d) Details of any guidance given about behaviour or code of conduct

Please provide any documents signed by employee (e.g. Guidance for Safe Practice document or agreed code of conduct)

e) Details of any past disciplinary action taken whilst within organisation

Please attach copies of any documentation

9. Details and outcomes of strategy meetings	a) Dates of all strategy meetings
	b) Decisions and outcomes
<i>Please attach details of all strategy meetings taking care to omit details referring to the child or family.</i>	

10. Disciplinary action in relation to current situation	a) dates
	b) Details of process and outcome
	<i>Please attach copies of documentation</i> c) Is an appeal pending? Yes/No <i>(If yes please give details)</i>

11 Trade Union or Association representatives	Name:	Address:
		Telephone Contact:

<p>12.</p> <p>Witness Statements</p> <p><i>Please list all witness statements attached which should include any statements made by the adult referred to CSOU. All witness statements must be signed and dated</i></p>	Name	Date of Statement

<p>13.</p> <p>Other relevant information</p>	<p><i>Please indicate if other reports are attached</i></p>
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<p>14.</p> <p>Chronology of significant events attached</p>	<p>Yes</p> <p><i>A chronology is a simple, brief record of the action and communication undertaken by the referring agency from the time the matter was first reported.</i></p> <p><i>See example in Appendix A</i></p>	<p>No (please explain)</p>
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<p>15.</p> <p>Summary of any risk to a child or young person</p>	<p><i>Please provide summary information in relation to this referral indicating why the individual is considered to be a risk to children and/or why the person is considered unsuitable for this area of work:</i></p>
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Referral Submitted by:
Print Name:
Address:
Contact Telephone Number:
Fax:
Email:
Date of Referral

Once completed this form and related documents should be marked as confidential and sent either to:

Children’s Safeguarding Operations Unit (POCA)

or

Children’s Safeguarding Operations Unit (List 99)

*DCSF, Area E, Ground Floor,
Mowden Hall, Staindrop Road, Darlington DL3 9BG*

List 99 Email TSM.Casework@dcsf.gsi.gov.uk

PoCA Email Mailbox.poca@dcsf.gsi.gov.uk

Example of Chronology

Chronology of Significant Events re (insert name)

Only one or two lines are necessary. This chronology should not include details but simply provide an overview of all that has happened since the concern was raised with the referring agency. This allows the reader to quickly ascertain how key events have unfolded.

Date	Action or Communication	Initials
04.04.07	Phone call from xx advising that member of staff had been arrested on charge of xx. Asked for further clarification	
04.04.07	Email received from xx with further details Discussed situation with LADO Advised Director	
05.04.07	Phone call from xx in Children’s Social Care who advised strategy meeting to take place on 06.07.07	
05.04.07	Discussion with xx regarding Mr. xxx	
05.04.07	Email to Director to update	
06.04.07	Strategy meeting. Decision to xxxx	
07.04.07	Press coverage of incident in Evening Post	
08.04.07	Discussion with Press Officer re maintaining confidentiality	
<i>Chronology continues until end of process</i>		

Appendix B

Example Information Sharing Protocol

[To be added.]