Managing Allegations Policy

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Safeguarding concerns and allegations made about staff, including supply teachers, volunteer and contractors

Surrey's LADO procedure will be followed where it is alleged that anyone working in the setting that provides education for children under 18 years of age, including supply staff, volunteers and contractors or another adult who works with children has:

- behaved in a way that has harmed a child, or may have harmed a child and/or
- possibly committed a criminal offence against or related to a child and/or
- behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children and/or
- behaved or may have behaved in a way that indicates they may not be suitable to work with children.

The last bullet point above includes behaviour that may have happened outside of the setting, that might make an individual unsuitable to work with children, this is known as transferable risk.

In dealing with allegations or concerns against an adult, staff must without delay:

Report any concerns to the Headteacher immediately.

If an allegation is made against the Headteacher , the concerns need to be raised with the Chair of Governors as soon as possible. If the Chair of Governors is not available, then the LADO should be contacted directly.

There may be situations when the Headteacher or Chair of Governor will want to involve the Police immediately if the person is deemed to be an immediate risk to children or there is evidence of a possible criminal offence.

Once an allegation has been received by the Headteacher or the Chair of Governors they will contact the LADO (as part of their mandatory duty) on 0300123 1650 option 3 LADO or Email: LADO@surreycc.gov.uk immediately and before taking any action or investigation.

Following consultation with the LADO inform the parents/carers of the allegation unless there is a good reason not to.

In liaison with the LADO, the setting will determine how to proceed and if necessary, the LADO will refer the matter to Social Care and/or the Police.

If the matter is investigated internally, the LADO will advise the setting to seek guidance in following procedures set out in part 4 of KCSIE (2022) and the SSCP procedures.

Responding to an allegation or concern - the role of the employer

An allegation or concern raised about a member of staff may arise from a number of sources, for example, a report from a child, a concern raised by another adult in the organisation, or a complaint by a parent. It may also arise in the context of the member of staff and their life outside work or at home.

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. They should not:

- Investigate or ask leading questions.
- Make assumptions or offer alternative explanations.
- Promise confidentiality.

They should follow their organisation's procedures, which should include the following:

- Making 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.
- Signing and dating the written record.
- Immediately reporting the matter to the designated safeguarding lead, or the deputy in their absence or where the designated safeguarding lead is the subject of the allegation report to the deputy or other appropriate senior manager.
- Some, very serious allegations, should be immediately reported to the police – this will also enable prompt action to be taken to gather evidence from mobile phones etc.
- Undertake an immediate risk assessment which involves ensuring immediate safety of the child and or children and seeking medical attention if required.

Initial action by the designated safeguarding lead (if different)

When informed of a concern or allegation, the designated safeguarding lead should not investigate the matter, but they should continue to gather factual information in regards to the incident and ensure any evidence is preserved. This fact-finding should be a neutral process and should not amount to an investigation of the incident.

They should:

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

Deciding if it is an allegation of harm or a concern

The designated safeguarding lead should review the information available and consideration should be given as to whether the case meets the threshold of harm/risk of harm.

- If it is decided it meets the threshold of harm/risk of harm and therefore is an allegation they should follow the procedures below and notify the LADO within one working day. The police should also be notified immediately. Police will liaise with the LADO service and advise them of any proposed actions and timescale for these. If it is decided that the incident does not meet the threshold of harm/risk of harm and is a concern only, then they should take steps to ensure any conduct or behaviour issues are addressed with the member of staff through normal employment practices;
- If the designated safeguarding lead is unclear whether the incident meets the threshold of harm/risk of harm they may wish to seek advice from the LADO.

Notifying the LADO within one working day of an allegation

The designated safeguarding lead must inform their LADO within one working day after an allegation is made and prior to any further investigation taking place. A failure to report an allegation in accordance with procedures is a potential disciplinary matter as this could place a child at further risk of harm.

- If it is outside of normal working hours and there is an immediate risk to a child, the local authority emergency duty team for Children Families and Learning and the Police must be called.
- In Surrey County Council (0300 123 1650 option 3). The LADO should be informed as soon as possible and at least within 24 hours.
- An immediate risk assessment should be carried out; this will include ensuring safety, identifying a safety plan and any potential organizational risk.
- The police should also be notified immediately if there is any potential criminal allegation and Police will decide on the appropriate level of response. It is important to note that information gathering is distinct from investigation. Employers should continue to gather information about the facts of the case, for example, checking if there is any evidence and taking statements from other witnesses.

Suspension – when it should be considered

The power to suspend lies with the employer. Suspension should be considered only in cases where there is cause to suspect a child or other children at the place of employment is/are at risk of harm/further harm or the case is so serious that it might be grounds for dismissal. The case manager/employer must consider carefully whether the circumstances warrant suspension from contact with children until the allegation is resolved and should seek advice from their HR adviser and the LADO(s).

The case manager/employer should also consider whether the result that would be achieved by immediate suspension could be obtained by agreeing alternative working arrangements (see below). In many cases an investigation can be resolved quickly and without the need for suspension. The decision around suspension would be the responsibility of the case manager/employer and should be directly informed by the severity, complexity of the allegation and any ongoing Police investigation. The LADO service will provide professional advice based upon the facts presented at the time to support the case manager/employer in their decision making, and on rare occasions this may result in challenge to the case manager/employer decision where the LADO disagrees with the assessment of risk.

Based on assessment of risk, the following alternatives should be considered by the case manager **before** suspending a member of staff:

- Redeployment so that the individual does not have direct contact with the child or children concerned;
- Providing an assistant to be present when the individual has contact with children;
- Redeploying to alternative work so the individual does not have unsupervised access to children;
- Temporarily redeploying the member of staff to another role in a different location.

These alternatives allow time for an informed decision regarding the suspension. This will, however, depend upon the nature of the allegation. The case manager should consider the potential permanent professional reputational damage to employee that can result from suspension where an allegation is later found to be unsubstantiated or maliciously intended.

If immediate suspension is considered necessary, the rationale and justification for such a course of action should be agreed and recorded by both the case manager and the LADO(s). This should also include what alternatives to suspension have been considered and why they were rejected.

Where it has been deemed appropriate to suspend the person, written confirmation should be dispatched within one working day, giving as much detail as appropriate for the reasons for the suspension (without revealing details of the allegation). It is not acceptable for an employer to leave a person who has been suspended without any support. The person should be informed at the point of their suspension who their named contact is within the organisation and provided with their contact details.

Where the alleged person is contracted or works independently such as a G.P, childminder or home tutor then a discussion must be held with the senior manager in the setting, or the regulatory body if there is one and the LADO and a decision made as to who will communicate with the alleged person and how support will be given to the alleged person. It is important to consider the circumstances in each case and there may be times when it is necessary for professionals to come together at a Managing Allegations Against Staff and Volunteers meeting to decide how to progress with a view to working together and being flexible in finding ways of managing the concerns.

If a suspended person is to return to work, the employer should consider what help and support might be appropriate (e.g. a phased return to work and/or provision of a mentor), and how best to manage the member of staff's contact with the child concerned, if still in the workplace.

Police bail

Police will make an informed decision on making an arrest based on the information known at the time. If an arrest is justified, and following the custody process, the officer in the case will consider if the threshold for bail conditions has been met and either release the suspect on bail with conditions or release under investigation (RUI) without conditions. The decision to arrest is not always an accurate reflection of the risk posed, and any decisions around management of the suspect and arrest/interview should be shared with the LADO for ongoing risk management.

Schools and colleges - interim prohibition order

In cases where a school or college is made aware that the Secretary of State has made an interim prohibition order in respect of an individual at the school or college, it will be necessary to immediately suspend that person from teaching pending the findings of the Teaching Regulation Agency (TRA) investigation.

The role of the LADO

Initial consideration of an allegation by the Senior Manager and the LADO

Deciding whether it is an allegation of harm or a concern

- All concerns reported to the LADO should be assessed to determine whether the threshold for an allegation of harm has been met. In Surrey CC, there is a triage system in place where a daily duty LADO will be responsible for undertaking the initial assessment In cases where it is not clear whether the threshold has been met or where the provided information is insufficient it might be necessary to have a discussion (by email, phone or in a face to face meeting) to evaluate whether the threshold is met – sometimes referred to as an evaluation meeting. In Surrey CC this was previously known as MASM but is now known as a Managing Allegations Against Staff and Volunteers Meeting (ASV)
- It is essential to keep the employer informed whilst the case is being assessed. Organisations referring allegations may want to challenge or discuss decisions made by the LADO and will need to be updated on any action taken;
- The employer and the LADO should discuss the incident and agree whether or not it meets the threshold for risk of harm. Consideration should be given to the risk or potential risk to both the child/children directly affected by the issue and any other children who may also be at risk;
- Where it is decided that the incident does not meet the threshold of harm/risk of harm and is a concern only, then the employer should take steps to ensure any conduct or behaviour issues are addressed with the member of staff through normal employment practices and feed the outcome back to the LADO team, this information will be added to consultation notes held by the LADO team.

Considering an allegation

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

- A police investigation of a possible criminal offence;
- LA Children's Social care enquiries and/or assessment about whether a child is in need of protection or services;
- Consideration by an employer of internal measures such as training/additional support and or disciplinary action in relation to possible performance/ conduct issues;
- Whether action in regard to the person making the allegation should be considered where the allegation has no foundation and may be malicious.

The LADO and the designated safeguarding lead should consider first whether further details are needed and whether there is evidence or information that establishes that the allegation is false or unfounded.

If the allegation is not demonstrably false and there is cause to suspect that the adult (or in specific circumstances the 16 or 17 year old) poses a risk of harm, the LADO should convene a Managing Allegations Against Staff and Volunteers Meeting (ASV). This will sometimes have to take place immediately but the speed at which it is convened should be commensurate to the risk. In Surrey CC, where possible, we aim to hold an ASV meeting within three to five working days of the referral. However, there are times when this may not be possible due to logistics and availability. In some but not all cases, it may be necessary to hold an ASV review either face to face, virtually or in writing. This should be held at least weeks but no later than 4 weeks from the initial ASV.

If the allegation does not meet the threshold for risk of harm, and there remains a concern that a child has possibly been harmed, however, there is no evidence to support this, but there is concern

around inappropriate behaviour or actions of an employee/volunteer, then the LADO should inform the employer of this concern. The employer will then be expected to take responsibility for addressing the issue via an internal management investigation and then report back to the LADO. The LADO will assess and record the outcome and can provide further advice and support to the employer where necessary. Once the employer has concluded an internal investigation and followed up on any other action in conjunction with their Human Resources (HR) department, then the LADO team should be informed of the outcome.

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

If the threshold for harm is not reached, but a police investigation might be needed, the LADO should immediately discuss the case with the police and, where necessary, convene a meeting, to include the police, employer and other agencies involved with the child. The outcome of such discussions must be recorded accurately in records include the decision and rationale for the decision having been reached.

Allegations Against Staff and Volunteers Meeting (ASV)

It is a multi-agency meeting that seeks to agree a course of action following an allegation against a staff member. The ASV meeting seeks to discuss and explore if there is enough information to suggest a child may have been harmed or a criminal offence may have been committed.

The purpose of the meeting is to scope, gather, share information and plan and direct the investigation which could also end up as an internal management investigation. Where necessary this will be a face-to-face meeting. Many cases can be managed through a discussion between the Senior Lead, the Police, any other relevant agency and the LADO. Where communication is via phone or email records should be kept for audit purposes that record any decision making and the rationale for this decision.

Where there is a larger number of people involved in the case and or where the case is assessed as complex, the benefit of convening a face-face meeting is increased.

An ASV meeting will normally only be convened when it has been decided that the threshold of harm/risk of harm has been met. Meetings should not be used to further investigate concerns about inappropriate behaviour or conduct where there are not clear indications of harm /risk of harm to a child.

The ASV will be chaired by the LADO. It will normally be attended by the Police, the allocated Social Worker for the child (only where there is one), or if the allegation/harm is very serious and child and family may need support a social worker from the Assessment Team, and the Employer. The Employer is advised to be accompanied by their Human Resources advisor to ensure joined up working from the onset. In cases where the allegation is against a Health Care professional, the designated or named nurse for safeguarding (Clinical Commissioning Group/CCG) should be invited. If an allegation is against a childminder or nursery worker then Ofsted should be informed and if appropriate invited to an ASV meeting. It may be appropriate to invite Ofsted to some other ASVs that concern staff in regulated settings.

The meeting / discussion should:

- Consider whether any parallel disciplinary process can take place and agree protocols for sharing information; There are situations where the outcome of the allegation is already known by the time the initial ASV is conveyed and on such occasions, the outcome should be recorded at the ASV even if the employers require a disciplinary investigation/action in relation to the member of staff's conduct.

- Consider the current allegation in the context of any previous allegations or safeguarding concerns;
- Where appropriate, take account of any entitlement by staff to use reasonable force to control or restrain children (e.g. https://www.gov.uk/government/publications/use-of-reasonable-force-in-schools);
- Consider whether a complex abuse investigation is applicable (see Organized and Complex Abuse Procedure);
- Plan enquiries if needed, allocate tasks and set timescales;
- Decide what information can be shared, with whom and when.

The meeting /discussion should also:

- Ensure that arrangements are made to protect the child/ren involved and any other child/ren affected, including children in the immediate family/household of the accused. If there are concerns about the accused *as a parent,* then these need to be shared with Children's Social Care;
- Consider what support should be provided to the member of staff and others who may be affected and how they will be kept up to date with the progress of the investigation.
- Ensure that investigations are sufficiently independent;
- Make recommendations where appropriate regarding suspension, or alternatives to suspension;
- Identify a lead contact manager within each agency;
- Agree protocols for reviewing investigations and monitoring progress by the LADO, having regard to the target timescales;
- Consider issues for the attention of senior management (e.g. media interest, resource implications);
- Consider reports for consideration of barring;
- Consider risk assessments to inform the employer's safeguarding arrangements;
- Agree dates for future meetings / discussions.
- A final meeting / discussion should be held to ensure that all tasks have been completed, including any referrals to the DBS if appropriate, and, where appropriate, agree an action plan for future practice based on lessons learnt.

Meetings/discussions in relation to allegations against staff in their personal lives

If an allegation arises about a member of staff, outside of their work with children, and this may present a risk of harm/risk of harm to child/ren for whom the member of staff is responsible through their employment / volunteering, a meeting/discussion should be convened to decide whether the concern justifies:

- Approaching the member of staff's employer for further information, in order to assess the level of risk of harm; and / or
- Inviting the employer to a further meeting / discussion about dealing with the possible risk of harm and ensure there is an appropriate Risk Assessment in place
- It is not within the LADO role to contact or meet the alleged member of staff directly.

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 meeting / 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 of harm to

child/ren for whom the member of staff is responsible through their employment/volunteering. In these circumstances, a meeting / discussion should be convened to consider:

- The ability and/or willingness of the member of staff to adequately protect the child/ren;
- Whether measures need to be put in place to ensure their protection;
- Whether the role of the member of staff is compromised.
- Whether there are any organizational risk and reputation to be considered.

Timescales for completing investigations of allegations

It is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation. All allegations should be investigated as a priority to avoid any delay. The time taken to investigate and resolve individual cases depends on a variety of factors including the nature, seriousness and complexity of the allegation, but these targets should be achieved in all but truly exceptional cases. Target timescales are shown below:

- For those noncomplex 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 LADO;

- In such cases, if the nature of the allegation does not require formal disciplinary action, the employer should institute 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 and the initial investigation outcome should be shared with LADO immediately

Whilst it is not a requirement but only a guide, like with most Local Authorities, the SCC LADO service still attempts to have:

- 80 per cent of cases should be resolved within one month;
- 90 per cent should be resolved within three months;
- All but the most exceptional cases should be completed within 12 months.

Monitoring progress

The LADO should monitor and record the progress of each case, either fortnightly or monthly depending on its complexity. This could be by way of review meetings / discussions or direct liaison with the police, LA children's social care, or employer, as appropriate. Where the target timescales cannot be met, the LADO should record the reasons.

The LADO 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 SSCP to monitor and evaluate the effectiveness of the procedures for managing allegations and provide statistical information to the Department for Education (DfE) as required.

If a police investigation is to be conducted, the police will conduct this as expeditiously as possible and will keep the LADO informed of progress. The timeliness of decision making on for example charging decision is entirely dependent upon the complexity of the investigation.

Records of LADO Allegations Management

Information of all allegations that meets LADO Threshold will be kept on a restricted and confidential LADO data base. The LADO will not upload information on to the children's data base

System (LCS). Information regarding allegations will be uploaded onto the LCS by social workers in the children services Teams. The Child's Social Worker will make a record about the events experienced by the child, allegations made and the actions taken by the Social Worker in response to the concerns/ allegations.

The alleged person's name **must not** be recorded on the child's file, but initials can be used. Any personal information regarding the perpetrator that may be discovered during the investigation is **not** to be placed on the child's records. An anonymized summary of the allegation **should** be placed on the child's file but this **must not** enable the alleged perpetrator to be identified. The personal details of the alleged perpetrator should kept securely on the LADO's secure files/database and access to this information should be restricted to only LADO's and relevant senior managers.

Retention of data is in line with agreed departmental procedures. The Social worker should note the LADO's reference number, which links to the allegation records, on the child's file, and the LADO team should be contacted for more information as required.

The outcome of the investigation into the alleged Perpetrator should be recorded on the child's file by the Social Worker. *This is seen as critical, particularly when children, become adults and come back to read their file. They must be able to understand the depth of the investigation.* If there is a Social Worker allocated at the time of the allegation/investigation part of their role will be the recording and they will also be concerned to assess and address the child's support needs arising from the events that are the subject of the allegations. If there is no Social Worker involvement, then the LADO should consider whether to refer the child for any support that may be required as the result of the allegations. Such support might best be provided by school staff, counselling, Mindworks (previously CAMHS) services, early help services, faith organisations, victim support services, voluntary organisations.

Outcomes following an investigation

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

Substantiated allegations

There is sufficient evidence to prove the allegation that a child has been harmed or there is a risk of harm.

If the facts of the incident are found to be true but it is not found that a child has been harmed or there is a risk of harm, then consideration should be given to deciding that the outcome is 'unsubstantiated' or 'unfounded' and or substantiating the incident but adding clear recording of the mitigating circumstances

Malicious

There is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive. The police should be asked to consider what action may be appropriate in these circumstances.

False allegations

There is sufficient evidence to disprove the allegation, however, there is no evidence to suggest that there was a deliberate intention to deceive.

False allegations may be an indicator of abuse elsewhere which requires further exploration. If an allegation is demonstrably false, the employer, in consultation with the LADO, should refer the

matter to LA children's social care to determine whether the child is in need of services, or might have been abused by someone else.

Unsubstantiated allegations

There is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

Unfounded

The additional definition of 'unfounded' can be used to reflect cases where there is no evidence or proper basis which supports the allegation being made. It might also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively, they may not have been aware of all the circumstances.

Outcome Letter

The Chair of the meeting / discussion should make a record of the agreed outcome and recommendations. The Chair of will then ask the employer/manager of the alleged person to put the outcome and recommendations in writing to the employer/ alleged person and send/ email a copy of the letter to the LADO who will keep this on the LADO data base.

References in cases where the allegation is false, unsubstantiated or malicious

Cases in which an allegation was proven to be false, unsubstantiated or malicious should not be automatically be included in employer references, but a discussion about relevance of such sharing of information should take place with the Human Resources (HR) department and the LADO before a final decision is made as to what will or will not be included in the reference. A history of repeated concerns or allegations which have all been found to be false, unsubstantiated or malicious should also not be routinely included in any reference and again a discussion about balancing risk and maintaining confidentiality should be held with relevant parties, such as line managers, HR and LADO.

It is noted in Keeping Children Safe in Education that allegations against teachers that are found to be unsubstantiated, or unfounded should not be shared in future references, however working together to safeguard children does not stipulate this for other professionals or volunteers.

Record keeping in relation to the outcome of an investigation

Details of allegations that are found to have been malicious should be clearly recorded as such and should not be referred to in any employment reference. Details and outcomes should not be removed from personnel records, since to do so would render the fact of the investigation incomprehensible. For all other allegations, it is important that a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, is kept on the confidential personnel file of the accused, by the employer and a copy provided to the person concerned. The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where future DBS checks reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time. The record should be retained at least until the accused has reached normal pension age or for a period of 10 years from the date of the allegation if that is longer. The Information Commissioner has published guidance on employment records in its Employment Practices Code and supplementary guidance, which provides some practical advice on record retention.