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# **Stoke-on-Trent Safeguarding Children Board**

## **ALLEGATIONS OF ABUSE MADE AGAINST A PERSON WHO WORKS WITH CHILDREN**

**Section Number D01**

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## D01 ALLEGATIONS OF ABUSE MADE AGAINST A PERSON WHO WORKS WITH CHILDREN

1. These procedures are intended to provide guidance relevant to a wide range of situations in which an allegation or concern arises about the conduct of a person who 'works' with children. Reference to *children* within this document is intended to include anyone who has not yet reached their 18<sup>th</sup> Birthday.

For the purposes of these procedures the definition of 'work' is significantly widened and intended to include the following:

- Those in paid employment, including temporary, casual, and agency staff.
- Individuals undertaking unpaid voluntary work.
- Individuals who are self-employed and work directly, or are contracted to work, in the provision of services to children.
- Prospective adopters, or adult members of their household (standard 22
- Adoption: national minimum standards July 2014)

A useful test for deciding upon the applicability of these procedures is to consider whether the individual subject to the allegation or concern occupies a position of trust – in that sense this potentially includes a broad range of scenarios whereby children may be abused by adults who seek, through work activity, to exploit their position of power and trust.

2. These procedures are principally underpinned by the following key documents:

- Working Together to Safeguard Children (July 2018),
- Keeping Children Safe in Education (KCSE) – Statutory guidance for schools and colleges (September 2018)
- Fostering Services : National Minimum Standards - standard 22 (2011)
- Adoption : National Minimum Standards - standard 22 ( 2014)

Relevant additional regional guidance, applicable where there are Cross-Border issues, also informs these procedures.

3. The LADO must be consulted when there are concerns that a person in a position of trust 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 they may pose a risk of harm to children.*

The parameters of the above criteria are notably wider than those which relate to the thresholds appropriate to situations in which there exists reasonable cause to believe a child is suffering, or is likely to suffer, significant harm. The issues in regard to the third bullet point, whether a person has behaved in a way that indicates they pose a risk of harm to children, may relate to a specific act, or an accumulation of concerns, or indeed

behaviours occurring outside of the workplace which invite a judgement in respect of the compatibility of such with their 'work' role (see paras. 53 - 56).

4. It is important to acknowledge that whilst the guiding framework relating to these procedures is set out above, it is recognised that all allegations or concerns have a unique set of factors and potential complexity which will necessitate careful consideration of how best to proceed. The statutory guidance contained within *Working Together* (2018) referred to above, mandates local authority children's services to provide a Designated Officer (known as LADO) who should be involved in the management and oversight of individual cases, and undertake other complimentary activity to ensure that cases are dealt with as quickly as possible, consistent with a thorough and fair process.
5. The role of a LADO is critical to these procedures, as are other designated roles referred to below, and as such there is an increasing tendency to refer to the management of allegations against people who work with children as the 'LADO process'. This should not, however, distract from the critical responsibility for all agencies to establish their own robust procedures and systems which are consistent with the requirements and guidance provided within this document.
6. Concerns or allegations about the behaviour of an adult in the children's workforce may arise in a number of different ways. For example:
  - An allegation made directly by a child or parent/ carer.
  - An allegation made by a colleague or member of staff.
  - Information from the police or children's social care e.g. information arising from child protection enquiries about a worker's own children (para. 69).
  - Information from a third party or member of the public
  - Information disclosed anonymously or online.
  - Concerns generated through an employment relationship.

### All Agencies' Responsibilities

8. All employers should have a specific procedure in place for dealing with any allegation or concern relating to a person who 'works' with children. The procedure should be clearly understood by all those who are 'employed' and it should feature prominently in staff induction, training, and commissioning arrangements. It should also reflect core principles which evidence a commitment to:-
  - maintain the interests of the child as paramount;
  - be appropriately supportive to the worker who is subject to the allegation;
  - seek as early a resolution as is possible subject to a thorough and fair process; and
  - maintain and promote a safer recruitment and safer care culture.
9. A key element of the procedure should be the identification of a named Senior Manager (SM) to whom all allegations or concerns should be reported. This role is referred to as Case Manager in statutory guidance for schools and FE colleges (Keeping Children Safe in Education 2018).

Where the responsibilities of the SM are to be delegated then this should be clearly detailed in the organisation's internal procedures both in terms of arrangements and identity of relevant individuals. The procedure should also provide guidance to cover situations whereby an allegation is made, or concern arises, in respect of the SM.

10. The procedure MUST emphasise that allegations or concerns that potentially satisfy the criteria set out in para. 3 should be notified to the duty LADO by the SM within 24 hours so that an initial discussion maybe undertaken.
11. It is to be noted that for HMYOI Werrington is located in Staffordshire and SSCB procedures are supported by an additional operational protocol reflecting the specific nature of that establishment in terms of the powers and responsibilities of Prison Officers.

### **The role of the Local Authority Designated Officer (LADO)**

12. Stoke-on-Trent City Council Children's Social Care Services (CSC) are responsible for meeting the statutory requirements in relation to the function of the Local Authority Designated Officer (LADO), who is expected to take a critical role in terms having oversight and input into the management of individual cases. In Stoke-on-Trent there is a dedicated LADO who is co-located with the Safeguarding Referral Team and situated within the MASH (Multi Agency Safeguarding Hub). The core expectations of the LADO are to:
  - provide advice and guidance to employers and facilitate an initial discussion.
  - liaise with the police and other relevant agencies.
  - monitor the progress of cases to ensure they are dealt with as quickly as possible, consistent with a thorough and fair process and seek to resolve any inter-agency issues.
  - collect strategic data for the purposes of periodic reporting to the SCB and DfE.
  - Chair LADO meetings to explore concerns if necessary.
13. In terms of the LADO's contribution to the allegations management process they may, where appropriate:
  - attend, or provide other appropriate contribution to Section 47 strategy meetings.
  - convene a LADO meeting (other local authorities may refer to this as a joint evaluation meeting) with the employer in circumstances whereby a strategy meeting is not appropriate but concerns need to be considered more fully.
  - agree an internal course of action to be followed when appropriate e.g. disciplinary investigation.
  - facilitate communication with relevant regulatory bodies, e.g. Ofsted, HCPC (Health Care Professions Council), National College of Teaching and Leadership (NCTL), Disclosure and Barring Service (DBS).
  - bring about the involvement of other key individuals/agencies, e.g. sports sector governing bodies.
  - undertake liaison with other LADO's where cross border issues exist.
  - seek to ensure that the appropriate actions have been taken following the conclusion of an investigation, e.g. referral to the Disclosure and Barring Service.
  - Contribute to the regional LADO network.
14. A critical aspect of the LADO role is to provide advice as to whether an allegation or concern meets the relevant criteria, and in doing so ensure a plan of action is undertaken which will allow the most effective and appropriate form of investigation – this is explained in more detail within Para 21 - 'Initial Discussion'

## Referring an allegation or concern

15. It must be noted that some allegations are so serious as to require **immediate referral** to the police and/or children's social care via the MASH. In other cases, 'Working Together to Safeguard Children' (2018) states that the LADO must be informed within one working day of the allegation/concern being raised.
16. Contact details for Staffordshire Police, Children's Social Care Safeguarding Referral Team (SRT), and LADO are:

**SRT and LADO (located within the MASH): 01782 235100**

### **Staffordshire Police via the MASH or 101**

17. Many allegations or concerns do not require immediate protective or other actions, and are rarely so straightforward as to allow the drawing of immediate conclusions. The undertaking of an 'initial discussion' (see below) with the LADO is an essential first-step in agreeing what actions should be undertaken and is intended to maximise the opportunity for a planned response that reflects an overriding concern for the welfare of the child and the taking of actions that are proportionate to the available information.
18. For referrals which require a response outside of normal working hours (including week-ends and Bank Holidays), then advice should be sought from:

**The Emergency Duty Service: 01782 234234**

19. It is important that at the point of referring an allegation or concern that all available information relevant to the matter is provided so that appropriate evaluation can be undertaken. This will include name, address and date of birth of the adult subject of concern, and, when identified, the child.
20. The **Police** have a responsibility to designate officers who will:
  - liaise with the LADO.
  - take part in strategy meetings/discussions.
  - review the progress of cases in which there is a police investigation.
  - share information as appropriate, on completion of an investigation or prosecution.

## The Initial Discussion

21. The purpose of the initial discussion is for the duty LADO and the Strategic Manager or case manager (or delegated referrer) to consider the nature, content, and context of the allegation, and to agree an appropriate course of action. **This should take place without delay and in any event within 24 hours of the allegation/concern arising.**
22. The senior manager/case manager/referrer should ensure they are able to share sufficient detail about the circumstances of the allegation, and have relevant additional information such as any previous history of allegations/concerns relating to both the child and the adult.
23. This initial sharing of information may conclude that the specific criteria set out in paragraph. 3 are not met. In these circumstances advice may be given by the duty

LADO to the SM (referrer) in terms of how best to proceed to facilitate some form of resolution. However, in all cases where the thresholds are not met it will be for the individual organisation/agency to conclude matters internally and there will be no further action by a LADO.

24. In all situations where the initial discussion concludes that one or more of the relevant thresholds are potentially met, then there will be three possible scenarios:
- a) Enquiries and assessment by Children's Social Care about whether a child or young person is in need of protection or in need of services.
  - b) A police investigation of a possible criminal offence.
  - c) Consideration by an employer of disciplinary action in respect of the individual.

These scenarios are not mutually exclusive and may exist singularly or in combination.

In planning and deciding upon the specific actions which will require undertaking, the LADO should also provide advice in respect of a range of additional considerations which will require careful judgment. For example:

- Possible risks to other children (e.g. the individual's own children or other children accessing activities which are linked with the individual in other settings such as scout leader or sports coach).
- Arrangements for informing the parents/carers of the child making the allegation and for establishing appropriate levels of support.
- Arrangements for informing the individual who is the subject of the allegation/concern and establishing appropriate levels of support.
- The anticipation of any media interest and managing confidentiality issues.
- Setting timescales (where possible) for key actions.
- Consider the use of suspension.

Where the initial discussion establishes that there is cause to suspect that a child is suffering, or is likely to suffer significant harm (s47 threshold – Children Act 1989), then the referral will be processed through the Safeguarding Referral Team (SRT) and a joint investigation and assessment will be initiated.

### **Inter-Agency Investigation and Assessment**

25. Where the initial discussion concludes that the s47 threshold (significant harm) may have been met, then the initial management of any allegation/concern will be driven by the agreed planning and recommendations arising from a Strategy Discussion which may take the form of a meeting or series of meetings (see Stoke-on-Trent Safeguarding Children Board multi-agency procedures [www.safeguardingchildren.stoke.gov.uk](http://www.safeguardingchildren.stoke.gov.uk) ).
26. While initial strategy discussions will inevitably take place within 24 hours of the referral being received by children's social care, the convening of a subsequent strategy meeting should take place as soon as practicable (within 7 working days of the referral) whether or not immediate action is necessary to protect a child and to secure evidence. The immediate protection of individual children however remains a paramount objective in all circumstances.
27. The relevant Practice Manager in children's social care should ordinarily take primary responsibility for convening and co-ordinating established arrangements for the strategy

discussion/meeting relating to a child. Where there are specific additional concerns, e.g. around complexity and/or seniority of the adult who is subject to the allegation/concern, then the Practice Manager may be required to make a judgment about who should chair the discussion/meeting.

28. In circumstances in which a S47 strategy discussion/meeting is convened the primary focus of concern is the child. However, it is also necessary to recognise that in these situations information will need to be considered and judgements made, in respect of the adult who is the subject of the allegation/concern, therefore it will be important that an invitation to this meeting is extended to the LADO, so they can ensure that a LADO meeting is held in a timely way with all the relevant individuals and organisations appropriate to the management of the allegation (e.g. HR; Ofsted) as soon as possible (sometimes it will be possible to attend/chair back to back meetings so relevant information is available).
29. The S47 meeting and the LADO meeting are separate as the former relates to the child and their immediate protection and the latter to the allegation against the adult.
31. It is also important that any outstanding considerations which were not confirmed within the initial discussion (see para 21) are further discussed and appropriate actions agreed.
32. Minutes of strategy meetings should be structured to reflect the clear separation between the concerns and actions in regard to safeguarding the child, and the personal details and issues pertaining to the adult about whom the allegation has been made and their work with children. Minutes should therefore have a Part A and Part B – with Part B pertaining to the adult. Only Part A should be retained on the child's record. There should be a cross reference on the child's file to the LADO records where Part B will be retained (see Record Keeping para 47).
33. Where the matter requires a police investigation, it is recommended that the police seek to obtain consent at the outset from the individuals concerned to share their statements and evidence they obtain with the employer for disciplinary purposes. A similar recommendation is made in respect of information that may be obtained by children's social care in the course of their enquiries so that the time required to establish any disciplinary case can be minimised.
34. Employers must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children or whether alternative arrangements can be put in place until the allegation or concern is resolved e.g. duties where they do not come into contact with children.
35. Suspension from duty should be considered in any case where:
  - there is cause to suspect a child is at risk of significant harm; or
  - the allegation warrants investigation by the police; or
  - is so serious that it might be grounds for dismissal.

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

36. Suspension should not be seen as an automatic response to an allegation and in all cases should be individually considered. The power to suspend is invested in the employer only, or in the case of schools and FE colleges with the Head Teacher or Principal and the Governing body. In addition, the employing organisation should always also seek HR advice and guidance when suspension is being considered.

There are cases when the decision to suspend without careful thought may impede a police investigation (e.g. by providing an early alert to an individual who may then have opportunity to destroy evidence), and in some circumstances it will only become apparent that this course of action is necessary following wider information sharing and discussion.

37. A potentially useful risk assessment tool to assist employers in making judgments about suspension is included within the Appendices.
38. If the decision is made to suspend the worker, even as a 'neutral act' to protect all parties, it should be done with a recognition of the need to establish appropriate arrangements to support the individual while the case remains on-going. The worker should be advised to contact their trade union or professional association where this is relevant, and in all cases the employer should strive to ensure updates about progress and likely timescales for investigation and other actions are provided regularly. It is recommended that a named contact person is provided wherever possible to facilitate an effective communication arrangement.

## LADO Meeting

39. In situations where the threshold for s47 child protection enquiries are not met, it may be appropriate for the LADO to convene a LADO meeting and invite the employer and other relevant agencies, which could include police and children's social care. In cases of those who are self-employed or work alone, consideration should be given about who to invite from any relevant regulatory or professional bodies. This would be in cases such as there being no identified child but considerable concerns about the conduct of the adult working or volunteering with children where there are allegations about downloading abusive images of children, historical abuse allegation, adult being the perpetrator of violence towards other adults, high level substance misuse, significant mental health issues having a potential impact on fitness to practice. The purpose of the meeting will be to evaluate the level of concern and to decide whether further disciplinary investigation is required and if any additional actions (e.g. suspension if not already considered) are necessary.
40. Minutes from these meetings should be retained by the LADO service. Other agencies must retain copies of such minutes in a confidential manner, and they should not be appended without permission to an electronic record of a child's file (also see para 31).
41. Evaluating the level of concern emanating from any allegation is an important precursor to determining whether a person poses a risk of harm if they continue working with children. This issue can be complex and is considered further in paras 53-56.

## Timescales

42. It is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation.
43. Where the initial consideration decides that the allegation does not appear to involve a possible criminal offence, it will be for the employer to deal with it, although guidance from LADO should be taken. If the nature of the allegation does not require formal disciplinary action, the employer should institute appropriate action within three working days (e.g. 'expectations meeting', arrangements for additional training, etc.).
44. If a disciplinary hearing is required and can be held without further investigation, the hearing should be held within 15 working days.
45. In all circumstances when the threshold for these procedures has been met, a LADO is required to monitor the progress of cases and should, where necessary, seek to expedite any actions which will help bring about as early a resolution as possible to the allegation/concern. The LADO should aim to review all cases at not less than 4 weekly intervals, and more frequently where there exists particular complexity. It is an expectation that where applicable the Police officer provides the LADO with regular updates in respect of any on-going Police investigation.
46. If the strategy discussion or initial assessment decides that a police investigation is required, the police should also set a target date for reviewing the progress of the investigation and consulting the Crown Prosecution Service (CPS) about whether to:
  - charge the individual;
  - continue to investigate; or
  - close the investigation

## Record Keeping

47. Record keeping by agencies is an integral part of all safeguarding processes. 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 retained, usually on the personnel file. However, organisations must have regard to sector guidance when keeping records about allegations e.g. schools should not keep records of allegations against staff which have been established to have been 'malicious' in personnel files (Keeping Children Safe in Education 2018 - section 213); In respect of prospective adopters or adult members of their household, the information must be retained on their case record for 100 years from the date of the adoption order (Adoption national minimum standards 22.7). Irrespective of sector requirements, it is essential that the LADO retains a record to show how the matter had been dealt with, and the rationale for the outcome.
48. Records should be kept and maintained at every stage of the process thus ensuring decisions are made on full, accurate and up to-date information and the rationale for those decisions can be traced, scrutinised and justified where necessary. Records should be secured in a confidential manner.
49. Clear and comprehensive records will:

- enable accurate information to be given in response to any future request for a reference (employers must have regard to sector guidance and HR advice in this regard);
  - provide clarification in cases where a future DBS 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; and
  - be an essential part of any necessary referral to the DBS (Disclosure and Barring Service) or other regulatory bodies.
50. Accurate record keeping and retention also allows for patterns of behaviour which may pose a risk to children to be identified. Records of allegations, advice given, actions taken and the outcome will be retained by the Stoke-on-Trent LADO service until the subject of the allegation reaches normal retirement age, or for a minimum of 10 years from the date of the allegation if this is longer. This is in line with record keeping requirements previously set out in Working Together to Safeguard Children (2018) and Keeping Children Safe in Education (2018).
51. The LADO service has additionally been required to provide periodic data returns to the Safeguarding Children Board (SCB) and to the Department for Education (DfE).
52. Requests to participatory agencies for copies of minutes of LADO meetings under a data subject access request must be referred to the chairperson of the meeting for appropriate consideration and permission.

## Risk of Harm

53. It will be necessary with some allegations or concerns to make a careful judgement when the concern is that a person has:
- *Behaved towards a child or children in a way that indicated they may pose a risk of harm to children*
54. In the previous (2010) 'Working Together Guidance', this criterion referred to 'unsuitability' of working with children. This terminology remains in use within standard 22 of the Adoption Minimum Standards (2014) and standard 22 of Fostering Services National Minimum Standards (2011). This allows for consideration of events or concerns which arise outside of the workplace.
55. For example, has a person working with children:
- contravened or has continued to contravene any safe practice guidance given by his/her organisation or regulatory body;
  - exploited or abused a position of power;
  - acted in an irresponsible manner which any reasonable person would find alarming or questionable given the nature of work undertaken;
  - demonstrated a failure to understand or appreciate how his/her own actions or those of others could adversely impact upon the safety and wellbeing of a child;
  - demonstrated an inability to make sound professional judgments which safeguard the welfare of children;
  - failed to understand or recognise the need for clear personal and professional boundaries in his/her work;

- behaved in a way in his/her personal life which could put children at risk of harm;
- become the subject of criminal proceedings not relating to a child but which may indicate risk to children e.g. assault, domestic violence, sexual offences against adults;
- become subject to enquiries under local child protection procedures; or
- behaved in a way which seriously undermines the trust and confidence placed in him/her by the employer.

56. Where there is no criminal conviction (or caution) then it will be necessary to make judgements on the basis of the balance of probabilities. Great care should be exercised in evaluating all the available information and a specialised assessment of the adult's behaviour should be commissioned by the employer when it is the view of the LADO and other professionals that this is required or desirable in order to assess any risk posed to children.

## Disqualification & Disqualification by Association

The provision applies to all schools and to all teachers, including supply teachers. It is a criminal offence for a school to employ anyone to provide childcare who is disqualified from registration.

The DfE has published supplementary guidance which details the Disqualification under the Childcare Act 2006.

Schools must ensure that they are not knowingly employing a disqualified person.

The list of offences is set out in the The Childcare (Disqualification) and Childcare (Early Years Provision Free of Charge) (Extended Entitlement) (Amendment) Regulations 2018. The list of specified offences can be found at:

<https://www.gov.uk/government/publications/disqualification-under-the-childcare-act-2006>

[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/414345/disqual\\_stat-guidance\\_Feb\\_15\\_3\\_.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/414345/disqual_stat-guidance_Feb_15_3_.pdf)

In broad terms, it includes serious violent and sexual offences and offences against children.

Disqualification under the Childcare Act 2006 has been amended so that schools must no longer ask about the cautions or convictions of someone living or working in their household. This came into force 3 September 2018. Consideration of Disqualification by Association only applies in domestic settings ie a childminder providing a service in their own home.

### Action on Conclusion of a Case

57. Where an allegation or concern has required investigation by the Police and/or children's social care, then it is necessary to ensure that the outcome of these processes appropriately informs subsequent actions.

58. The police should inform the employer and the LADO as soon as a criminal investigation and any subsequent trial are concluded, or if a decision is taken to close an investigation without charge. The LADO should then record this decision and discuss with the employer whether any further action is required and, if necessary, how to proceed.

59. Following the conclusion of relevant investigatory activities it will be necessary to decide upon an outcome. Current national guidance relating to terminology and definition is contained within Keeping Children Safe in Education 2018 Paragraph 193. The LADO will use the following definitions which will be used when determining the outcome of allegation investigations:

- Substantiated: there is sufficient evidence to prove the allegation;
- Unsubstantiated: there is insufficient evidence to either to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.
- False: there is sufficient evidence to disprove the allegation
- Malicious: there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive.
- Unfounded: there is no evidence or proper basis which supports the allegation being made. It might also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively, they may not have been aware of all the circumstances.

60. If the allegation is substantiated and the person concerned is dismissed for reasons of misconduct which harmed a child, or placed a child at risk of harm, or because they consider the person is a risk of harm to children, (or the employer ceases to use the person's services for the same reason, or the person resigns during the course of the investigation and this cannot be completed), then there is a **statutory duty** on the employer to make a referral to the DBS.

<https://www.gov.uk/government/publications/dbs-referrals-form-and-guidance>

This is irrespective of whether the evidence is such that the employer or LADO feel that the case is likely or unlikely to result in the individual being barred from working with children. If the person is subject to registration or regulation by a professional body, e.g. Health Care Professions Council, National College for Teaching and Leadership, General Medical Council, OFSTED etc., the LADO should advise on whether a referral to that body is appropriate.

61. If, however, it is decided upon the conclusion of a case that a person who has been suspended (or otherwise removed from routine duties) can return to normal work duties, then the employer should consider how that might be best facilitated and recognise the likely need for strategies of support and re- integration. Issues associated with renewed or future contact between the worker and child initiating the allegation should also be considered and appropriate steps taken to effectively manage the situation and any potential difficulties.

62. At the conclusion of a case in which an allegation is substantiated, the LADO should review the circumstances of the case with the senior manager/case manager to determine whether there are any improvements to be made to the organisation's procedures or practice to help prevent similar events in the future.

## Resignations and compromise agreements

63. It is important that every effort is made to follow cases through to a conclusion in all circumstances irrespective of whether the individual submits their resignation or in any way declines to co-operate with the necessary investigation or activities. It may be appropriate, depending on the outcome of the investigatory process, to refer concerns about a worker to the DBS – this responsibility remains with the employer irrespective of the worker's actions, and is an important facet of bringing about a safer children's workforce.

64. A “compromise agreement”, by which a person agrees to resign on the basis of the employer not pursuing disciplinary action, and by both parties agreeing a form of words to be used in any future reference, should **not** be considered appropriate in any circumstances. A disciplinary process should, as far as practicable, be undertaken and concluded when the circumstances require such a response even in the absence of the worker. It will also be necessary to refer to the appropriate regulatory body and DBS if the outcome of the disciplinary in these circumstances was likely to have been dismissal or a cessation of using that individual’s services.

## Whistle-blowing

65. All staff should be made aware of the organisation’s whistle-blowing policy (*Public Interest Disclosure Act 1999*) and feel confident to voice concerns about actions or attitudes of colleagues. Therefore the whistle-blowing policy should specifically reference safeguarding issues (an example policy is available from [www.safeguardingchildrenstoke.gov.uk](http://www.safeguardingchildrenstoke.gov.uk)). If a member of staff believes that a reported allegation or concern is not being dealt with appropriately by their organisation, then s/he should contact the LADO directly.
66. It is important that organisation’s policies relating to the management of allegations and ‘whistle blowing’ are cross referenced and accessible to all members of staff. They should be seen as significant components of a Safer Recruitment culture.

## The self-employed and commissioning arrangements

67. Sometimes allegations or concerns will arise that relate to individuals who are not contractually or directly linked to a line management structure and/or conventional HR arrangements. For example, providers of tuition in the home. It is important that responses to these situations are as robust as they would be for other sectors of the children’s workforce. A LADO Meeting would generally be required in such circumstances.
68. Similarly, there will be an assumption that any organisation which is commissioning the service(s) being provided (e.g. school transport) will assume the responsibilities normally associated with that of ‘employer’. The LADO will take a prominent role in identifying any additional commissioning organisations or other potential children at risk, and bring about the participation of third sector, faith and regulatory bodies where relevant. The LADO will take further key responsibility in co-ordinating cross border activity (para 73).

## Safeguarding Concerns relating to parents/carers who work with Children

69. Section 47 enquiries in intra-familial cases should wherever possible, identify whether the parent or carer of concern also works with children. Consideration needs to be given whether any actual or potential concerns about significant harm within the family also have implications for the safety of the children in the parent/ carer’s place of work.
70. As soon as a children’s social care Practice Manager becomes aware that a section 47 enquiry involves a parent who works with children, they should discuss the matter with the LADO, who will give advice as to whether the procedure for allegations against people who work with children should be followed, and assist in co-ordinating other activities as required.
71. In some situations an allegation of abuse may be made against a person closely associated with a member of staff e.g. partner and consideration will be required as to

whether any risks extend to the children for whom the member of staff is responsible. This should include:

- the ability and/ or willingness of the member of staff to adequately protect the children.
- whether measures need to be put in place to ensure their protection.
- whether the response/ behaviour of the member of staff calls into question whether they would be a risk of harm if they worked regularly and closely with children.

72. If the member of staff lives in a different local authority area to that which covers his/her workplace, the LADO will liaise as necessary with other LADO's and help to facilitate agreement on respective roles and responsibilities in terms of actions and convening of meetings.

### Cross Border Issues

73. Some allegations or concerns will reflect circumstances which are not solely located within the boundaries of this local authority. For example, a worker may be employed within one local authority, undertake voluntary work in another, and live with his/her children in a third area.

74. The West Midlands Government Office historically provided specific guidance to assist in circumstances in which there are issues which span two or more local authorities (see Appendix 4). In all cases professional judgments and negotiations will need to take place between the respective LADO's in terms of who should take the lead responsibility in co-ordinating the investigation.

75. The guidance suggests that responsibility ordinarily will rest with:

- the local authority where the subject has substantive employment.
- for the self-employed, the local authority where he/she resides.
- for the volunteer – the local authority for the area where he/she has a substantive role or area in which he/she resides.
- for agency/supply staff – the local authority who currently employs the person
- for multiple subjects/'victims' – the local authority in which the concerns have arisen (e.g. residential establishment).

### References and further information:

Working together to Safeguard Children 2018

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/729914/Working\\_Together\\_to\\_Safeguard\\_Children-2018.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/729914/Working_Together_to_Safeguard_Children-2018.pdf)

Keeping children safe in education – statutory guidance for schools and colleges July 2018

<https://www.gov.uk/government/publications/keeping-children-safe-in-education--2>

Adoption National Minimum Standards July 2014

<https://www.gov.uk/government/publications/adoption-national-minimum-standards>

Fostering Services: National Minimum Standards 2011

LADO November 2018

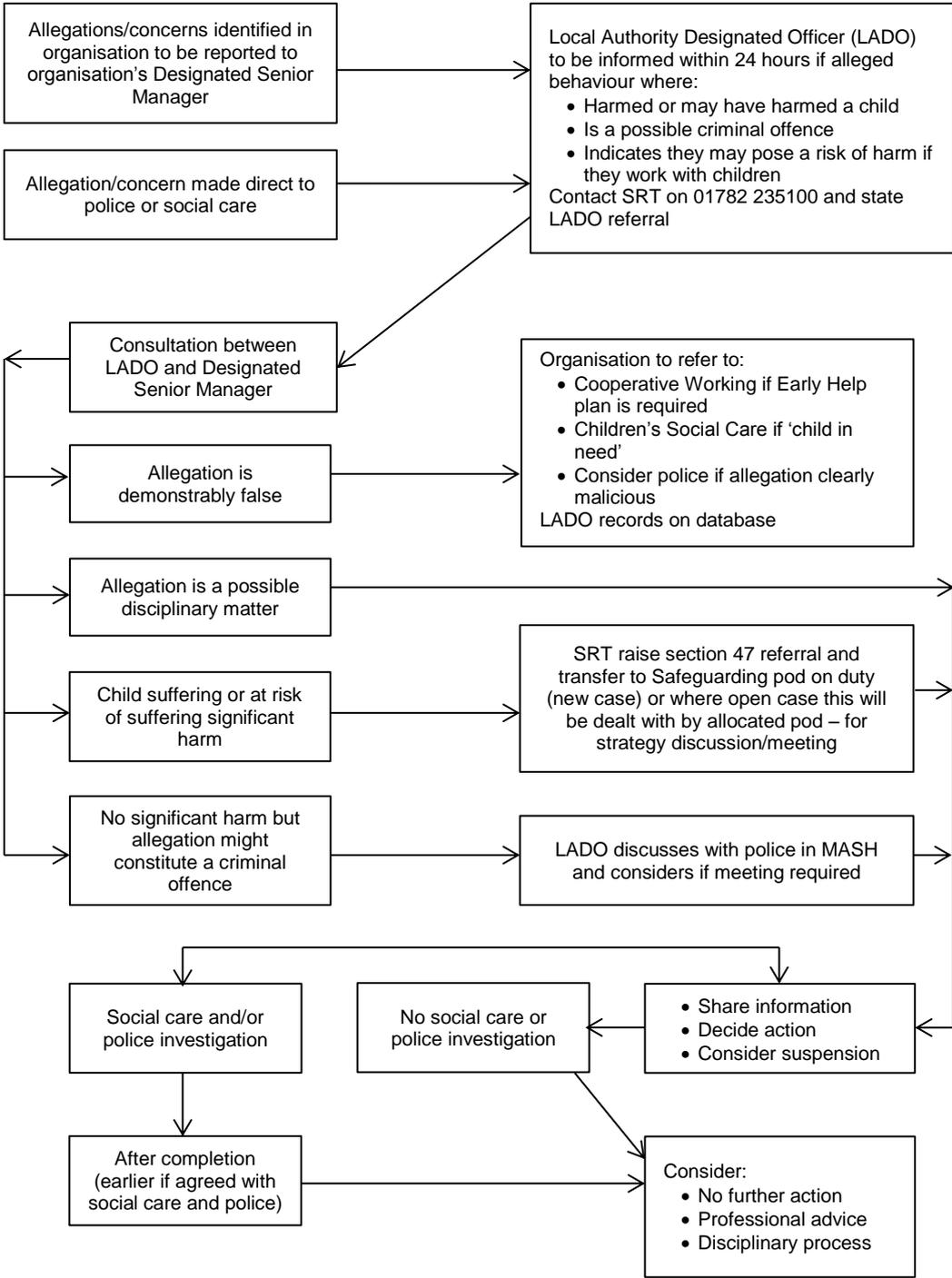
<https://www.gov.uk/government/publications/fostering-services-national-minimum-standards>

Disclosure and Barring Service:

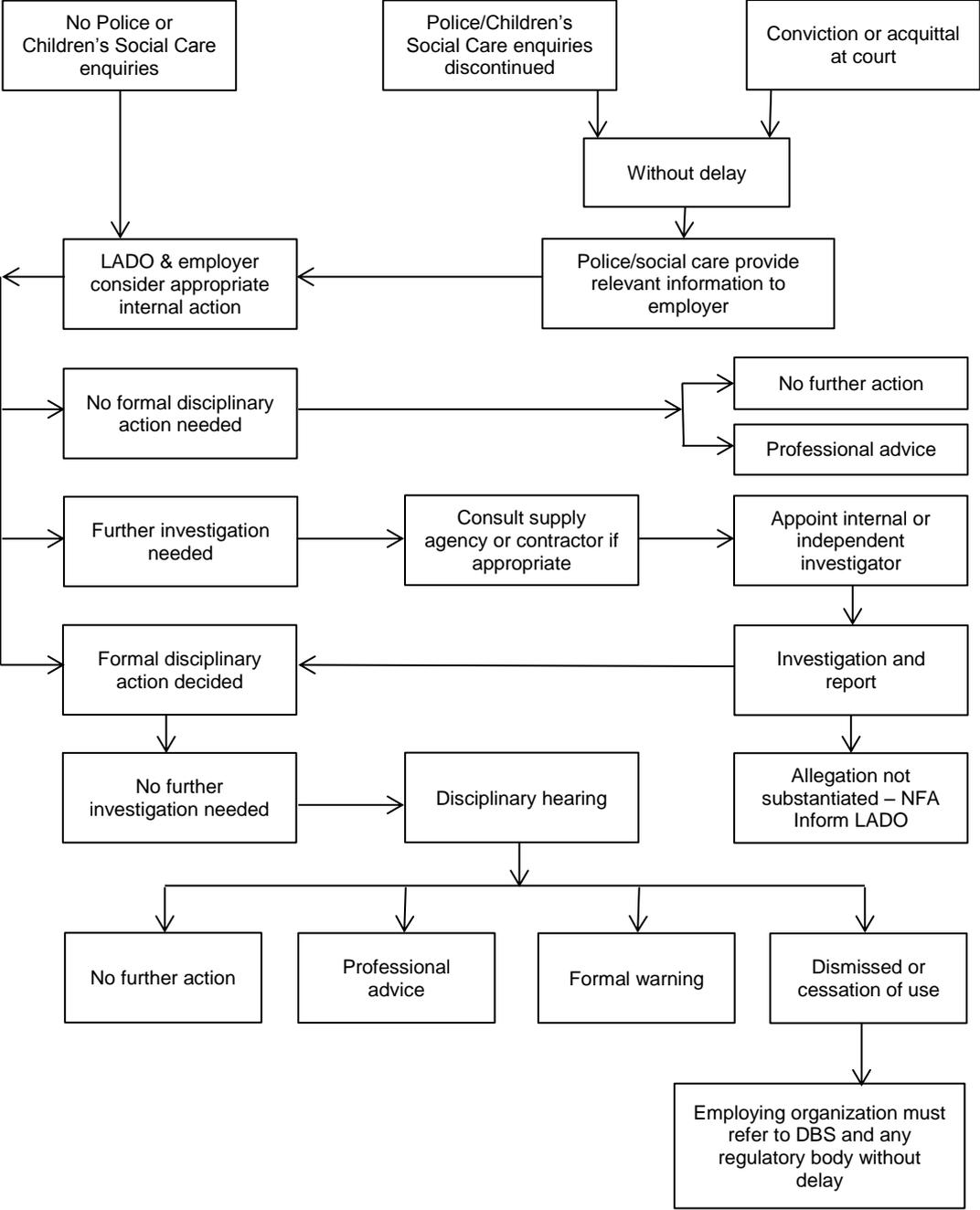
<https://www.gov.uk/government/organisations/disclosure-and-barring-service>

In all cases where there are multiple victims and multiple 'perpetrators', consideration should be given to initiating the SCB's 'Complex Abuse Procedures' SOT D04.

**ALLEGATIONS/CONCERNS AGAINST STAFF AND VOLUNTEERS  
PROCESS**



**ALLEGATIONS/CONCERNS AGAINST STAFF AND VOLUNTEERS  
DISCIPLINARY/SUITABILITY PROCESS**



**Appendix 3 - Suspension Risk Assessment Tool**

**Suspension should only be considered if one or more of the following apply:**

- A child or children are at risk of significant harm
- The allegation warrants investigation by the police
- The allegation is so serious that dismissal / gross misconduct is possible

<p><b>CONTENT OF INCIDENT:</b>                  Duration and frequency of alleged abuse                  Degree of threat or cohesion                  Extent of premeditation                  Degree and nature of harm</p>	<p><b>CONSIDERATION:</b></p>
<p><b>INFORMATION RE STAFF MEMBER:</b>                  Previous concerns                  Previous allegations                  Attitude to allegation – if aware                  Current contact with child                  Duties involving contact with children</p>	
<p><b>INFORMATION RE CHILD:</b> Age and level of understanding                  Special needs and vulnerability                  Impact on health and development                  Previous allegations against adults or children</p>	
<p><b>INFORMATION RE PARENT / CARER:</b>                  Attitude to allegation                  Previous allegations</p>	
<p><b>PROCEDURES AND POLICY:</b>                  Allegations/safeguarding/staff code of conduct policy/procedures in place?                  Degree of compliance                  Training</p>	

**Decision to suspend: YES/NO**

**If no, risk assessment and management plan in place: YES/NO**

**Date of decision**

**Name and signature of case manager:**

.....

## Appendix 4

### Cross-Border Issues – Regional Guidance

#### MANAGEMENT OF ALLEGATIONS AGAINST PEOPLE WHO WORK WITH CHILDREN & YOUNG PEOPLE WHERE THERE ARE CROSS-BORDER ISSUES

##### 1.0 PURPOSE

- 1.1 To provide supplement guidance to West Midlands Local Safeguarding Children Boards in respect of allegations against people who work with children, where there are cross-border issues between two or more local authority areas.
- 1.2 To promote good practice in effective communication, information sharing, and decision-making in order to safeguard children & young people who are the subject of concern.
- 1.3 To ensure compliance with '*Working Together 2018*' and '*Keeping children safe in education 2018*'. Refer also to superseded guidance within Working Together 2010 (appendix 5)

##### 2.0 DEFINITIONS

- 2.1 This guidance applies to when there is an allegation or concern that any person who works with children, in connection with their employment, voluntary or personal activity, has:
  - *Behaved in a way that has harmed a child, or may have harmed a child;*
  - *Possibly committed a criminal offence against, or related to, a child;*
  - *Behaved towards a child or children in a way that indicates he or she would pose a risk of harm to children*
- 2.2 The term 'employment' is used to refer to organisations that have a working relationship with the individual against whom an allegation is made – including volunteers as well as paid staff, agencies, contractors and regulatory bodies such as Ofsted in the case of child-minders. Employing agencies that provide services to children and young people have a duty to have in place:
  - rigorous recruitment and selection procedures;
  - guidelines for staff which promote safe working practices to ensure the safe care of children;
  - clear procedures and support systems for dealing with concerns or allegations against employees or volunteers;
  - whistle blowing policy

The above provides a clear rationale for the guidance laid out in section 3.

2.3 Where allegations are made, or where there are concerns about suitability to work with children, the investigation is likely to involve the following three strands of activity:

- The police investigation of a possible criminal offence;
- Enquiries and assessment by Children's Social Care services as to whether the child is in need of protection or in need of services;
- Consideration by an employer of disciplinary action in respect of the individual.

### **3.0 INFORMATION SHARING**

3.1 In deciding what information to share with another local authority or Local Safeguarding Children Board, individuals will need to give careful consideration to duties under the Data Protection Act 2018, the law of confidence, where relevant, the Human Rights Act 1998 and their own local safeguarding children procedures and information-sharing protocols. This is of particular importance where consideration is being given to disclosing or sharing information in respect of an individual's 'suitability to work with children' where that individual has not been formally charged or convicted of an offence under Schedule 4 of the Sexual Offences Act 2003.

3.2 This is of particular importance where consideration is being given to disclosing or sharing information in respect of an individual's 'suitability to work with children' where that individual has not been formally charged or convicted of an offence under Schedule 4 of the Sexual Offences Act 2003. It is recommended that legal advice be sought in any case.

### **4.0 MANAGEMENT OF ALLEGATIONS OR CONCERNS**

#### **All Cases**

4.1 In all cases, professional judgements and negotiations will need to take place between the respective **Local Authority Designated Officers (LADO)** in reaching a decision about who takes the lead in terms of co-ordinating such investigations, in accordance with the roles and responsibilities of individual agencies outlined in **2.3**.

4.2 In all cases, there should be no delay in undertaking section 47 investigations due to delays in facilitating multi-agency Strategy or Co-ordination Meetings or agreeing which local authority should take the lead in this respect. In some cases, it will be appropriate to undertake such investigations due to the need to safeguard the immediate welfare of the child or children, or preserve important evidence as part of a criminal investigation.

### **Concerns of allegations in respect of Individual employment**

- 4.3 Where concerns arise in respect of an individual's behaviour in accordance with **2.1**, the Local Authority Designated Officer (or representative) to whom these such concerns or allegations are referred will share information with:

The local authority area in which the person is employed (in their substantive role)

The local authority area in which the person normally resides

The police operational command unit area in which an offence may have been committed.

- 4.4 If the individual to whom the concerns or allegations relate is employed in accordance with **2.2**, then the local authority area in which he/she is employed should take responsibility for the co-ordination of the strands of the investigation outlined in **2.3**. This will normally take the form of Strategy Meeting or Position of Trust meeting
- 4.5 If the subject of concern or allegation is self-employed, the local authority in which the individual normally resides will coordinate.

### **Concerns in respect of individuals employed by 'supply agencies'**

- 4.6 If the subject works for one or more independent supply agencies, the local authority in which he/she is currently employed or in which the concerns in respect of his/her employment have arisen will take the lead in terms of co-ordination.
- 4.7 If the individual works for several 'supply agencies and the concern relates to an individual's suitability, for example, their behaviour outside of their employment, co-ordination being undertaken by the local authority in which he/she normally resides.

### **Concerns in respect of individual volunteers**

- 4.8 There may be some occasions when an individual about whom concerns or allegations have arisen is not employed and works in a voluntary capacity for a number of organisations. In these circumstances where it is not possible to identify the "employer" the local authority in which the individual normally resides should take the lead in co-ordinating the strands of investigation.

### **Concerns in respect of more than one individual or multiple victims**

- 4.9 There may be occasion when concerns or allegations arise in respect of a number of individuals working with children & young people, either in a single location or different locations. Generally, the local authority either where the concerns have arisen or where the establishment is located will take the lead in terms of co-ordination.
- 4.10 If the concerns relate to one specific establishment, such as a child-care provider or residential facility, the local authority in which the establishment is located will take the lead in co-ordination of the strands of the investigation. Consideration should be given to initiating the Ofsted Serious Incident Protocol in respect of regulated providers.

## **5.0 MONITORING & REVIEW**

- 5.1 It is the responsibility of the Local Authority Designated Officer (LADO) to monitor the effectiveness of these arrangements and report to the Local Safeguarding Children Board in accordance with local agreement.