

ALLEGATIONS AGAINST STAFF, CARERS, AND VOLUNTEERS

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PROCEDURE FOR MANAGING ALLEGATIONS AGAINST PEOPLE WHO WORK WITH CHILDREN INTRODUCTION

1. INTRODUCTION

- 1.1 Experience shows that children can be subjected to abuse and exploitation by those who work with them in any context. They have been found to be vulnerable in all organisational settings including social care, education, health care, the leisure industry and in faith communities. These Procedures relate to any person who works with children, whether a professional, staff member, foster carer or volunteer.
- 1.2 These procedures must be used by all organisations in Knowsley where people work with children , including organisations that provide staff or volunteers, alongside those who come into contact with children through their work.
- 1.3 For convenience, the term employer is used throughout this guidance to refer to organisations that have a working relationship with the individual against whom the allegation is made.
- 1.4 The term employer includes organisations that use the services of volunteers, or people who are self-employed, as well as service providers. This includes, voluntary organisations, employment agencies or business, contractors, fostering services, regulatory bodies (such as OFSTED in the case of childminders), and others that may not have a direct employment relationship with the individual but will need to consider whether to continue using the person's services, or to deregister the individual. In some circumstances the term "employer" for these purposes will encompass more than one organisation. For example, where staff providing services for children in an organisation are employed by a contractor, or where temporary staff are provided by an agency. In those circumstances both the contractor or agency, and the organisation in which the accused individual worked will need to be involved in dealing with the allegation.
- 1.5 These procedures are based on the framework for dealing with allegations detailed in Working Together to Safeguard Children 2015, and Organisational Responsibilities, Section 11 of the Children Act 2004 There is also guidance contained within Dealing with Allegations of Abuse against Teachers and School Staff. These are the main guidance documents and must be applied when there is an allegation that a person who works with a child 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 s/he may pose a risk of harm to children.**
- 1.6 This may be in connection with his/her employment or voluntary activity, or where:
- **Concerns arise about the person's behaviour with regard to his/her own children.**
 - **Concerns arise about the behaviour in the private or community life of a partner, member of the family or other household member.**
- 1.7 There may be up to 3 strands in considering a concern or an allegation:
- **A police investigation of a criminal offence.**
 - **Enquiries and assessment by Children's Social Care about whether child or young person is in need of services.**
 - **Consideration by an employer of disciplinary action in respect of the individual.**
- 1.8 If an allegation relating to a child is made about a person who undertakes paid or unpaid care of vulnerable adults, consideration must be given to the possible need to alert those who manage her/him in that role.
- 1.9 These procedures can also be applied if an allegation is made against a person in relation to his/her work with adult service users, which causes concern about the welfare of an adult service user's children.
- 1.10 Compliance with these procedures must help to ensure that allegations of abuse are dealt with expeditiously, consistent with a thorough and fair process.
- Underlying principles:**
- The welfare of the child is paramount.
 - Adults about whom there are concerns must be treated fairly and honestly and must be provided with support.
- 1.11 It is the responsibility of all adults to safeguard and promote the welfare of children . This responsibility extends to a duty of care for those adults employed, commissioned, or contracted to work with children .

2. ROLES AND RESPONSIBILITIES

- 2.1 Knowsley Local Safeguarding Children Board (KSCB) has responsibility for ensuring there are effective inter agency procedures in place for dealing with allegations against people who work with children and for monitoring and evaluating the effectiveness of those procedures.
- 2.2 In order to discharge the duties of the Board each member organisation must identify a named **senior officer** with overall, strategic responsibility for:
- Ensuring that the organisation operates these procedures for dealing with allegations in accordance with guidance of Working Together 2015.
 - Resolving any inter agency issues that may arise.
 - Liaising with the Knowsley Safeguarding Children Board (as appropriate).
 - Meeting with the **Local Authority Designated Officer (LADO)** on a regular basis to discuss organisational response to allegations against professionals.

Employers must:

- Put in place and operate arrangements for handling allegations in accordance with these procedures.
 - Identify a Senior Manager to whom allegations or concerns must be reported, and a deputy in his/her absence or if he/she is the subject of the allegation.
- 2.3 Within every organisation, which works with or comes into regular contact with children , there must be clear lines of accountability and communication as well as safeguarding policies and procedures that are consistent with Knowsley's managing allegations procedures.
- 2.4 All adults who come into contact with children have a responsibility to safeguard and promote their welfare. They are also vulnerable to the potential for false, malicious or misplaced allegations being made, either deliberately or innocently, arising from normal and proper association and conduct. However, it is regrettably the case that some adults/professionals have been found to be perpetrators of child abuse and/or for behaving in ways which have harmed children and which indicates that they are unsuited to working with them.
- 2.5 Employers also have a duty of care towards their employees/volunteers and must take account of this at a number of levels through the provision of appropriate induction/training, through the provision of clear guidance on codes of conduct and relevant disciplinary procedures, alongside those for managing allegations.

The LADO's role includes:

- The management and oversight of individual cases.
- Providing advice and guidance to employers and voluntary organisations.
- Liaising with the police and other agencies.
- Monitoring the progress of cases to ensure that they are dealt with as quickly as possible and are consistent with a thorough and fair process.
- Report regularly to the KSCB on the number, nature, and progress of cases.
- Meet with Named Senior Officers on a quarterly basis to monitor organisational response to allegations made against professionals.

2.6 Where allegations are made against adults who work with children , it is the Police and Children's MASH Team who initially investigate alleged or suspected abuse or possible criminal behaviour. Once either of those agencies indicates they will not be conducting an investigation, the LADO will discuss next steps with the senior named person in the organisation.

2.7 The LADO is responsible for co-ordinating investigations in relation to employment in the KMBC catchment area. The employee must ordinarily work in the area irrespective of where the organisations head office is based and if the incident takes place outside the area of employment e.g. a holiday location, or school trip then this will be case managed where the employee is normally based. In relation to Foster Carers their place of work is considered to be their home address, therefore any foster carer living inside the local authority boundary will be dealt with by their home local authority and not the area where Fostering Agency is based.

3. RESPONDING TO AN ALLEGATION

3.1 Agencies covered by these pan-Knowsley procedures must have in place their own policies, procedures and guidance relating to the conduct of their employees and they must be used to ensure compliance with these procedures.

3.2 Information sharing is vital to safeguarding and promoting the welfare of children . Disclosure of information to safeguard children is supported by the Children Act 1989 and Working Together, and by application of the welfare principle. Additionally, there are clauses within both the Data Protection Act and Human Rights Act, which allow for information to be shared for these purposes.

3.3 Staff must be aware that children might feel unable to express concerns. All staff must therefore be aware that they have a legal duty to take action, if the concern is about the safety of children.

- 3.4 If a member of staff believes that a reported allegation or concern is not being dealt with appropriately, she/he must their agency's escalation procedures or report it to the regulatory body/LADO.
- 3.5 Historical allegations must be responded to in the same way as contemporary concerns if the person continues to be employed. It is important to establish if the person is still working with children and if so inform the current employer or voluntary organisation.
- 3.6 There are a number of sources from which an allegation may arise, such as a child, parent, carer, member of the public, work colleague, professional body.

The person to whom the allegation is reported initially must:

- Treat the matter seriously.
- If the allegations are so serious and there is an immediate risk to the child or young person then a telephone referral must be made to MASH followed a referral form to the LADO.
- Avoid asking leading questions and keep an open mind.
- Make a written record of the information (where possible in the child's/adult's own words) including:
 - What is alleged to have happened:
 - when the alleged incident took place (time and date):
 - where the alleged incident took place:
 - who was present (including any witnesses).
- Sign and date the written record.
- Report the matter immediately to their line manager, who completes the allegations Referral Form for consideration by the organisation's named senior person for managing allegations.

4. INITIAL ACTION BY THE SENIOR MANAGER

- 4.1 Senior Managers need to understand which behaviours to address directly through their complaints or disciplinary procedures and under what circumstances they must contact the LADO. What constitutes appropriate or inappropriate behaviour will vary depending upon the context and nature of the work undertaken. All employers have a responsibility to set personal and professional boundaries for their staff and to be explicit about what behaviours are illegal, inappropriate, or unacceptable.
- 4.2 The Senior Manager **must not** investigate the matter by interviewing the accused person, any child(ren) or potential witnesses. The Senior Manager:

Must:

- Obtain written details of the allegation, signed and dated, from the original recipient;
 - record any other information at their disposal i.e. what else is known about any of the individuals implicated – length of service, specific role within the organisation, previous/current level of contact with the child(ren) involved, details of any relevant plans pertaining to the child(ren) implicated (e.g. behaviour management plan), whether there have been any previous relevant concerns/allegations/disciplinary issues:
 - whether the subject of the allegation has any children of their own or children who reside at their home address:
 - Check to see whether any contemporaneous records exist which might relate to the alleged incident. (For example, care and control/behaviour records):
 - Counter sign and date an updated record of discussions and decisions.
- 4.3 Discussions about suspension/change of duties (that do not include contact with children) may take place and while other professionals may wish to express a view, the decision to suspend/change duties rests ultimately with the employer and should be in accordance with each organisation's own policies.
- 4.4 **If the allegation meets, any of the criteria above the Senior Manager must refer the matter to the LADO within 24 hours of being notified of the allegation.**
- 4.5 This is done by forwarding the completed referral form electronically together with any reports, incident sheets, etc. A copy must also be retained as per the organisation's policies and procedures.
- 4.6 In the event that the decision about whether to refer to the LADO is not clear, then the Senior Manager must contact the LADO via telephone in order to discuss and verify whether there is evidence or information that establishes that the allegation is false or unfounded or outside the scope of this procedure.
- 4.7 Where a notification to LADO is to be made then it is imperative that the subject of the allegation is notified formally as soon as possible and it is followed up in writing. The LADO will advise the Senior Manager on when and how to inform the employee of the allegation and any parents/carers as appropriate.
- 4.8 The LADO will notify the employer/senior manager of any notifications made directly to the Police or Knowsley'sMASH of which the organisation may not otherwise be aware.

5. RESPONDING TO AN ALLEGATION MADE TO THE POLICE

- 5.1 Police Officers who receive allegations in the course of their duties should ensure that this is reported to the Police Team based in Knowsley MASH. This should be done by completing and submitting the police form VPRF1. Operational Police officers should always notify their line-managers immediately when an allegation is made. If an allegation places the child at risk of immediate harm operational police officers should make a telephone referral to the police MASH Team without delay. The MASH Police Team will be responsible for making the notification to the LADO within 24 hours and ensuring that liaison also takes place with the Children's Social Care Team within MASH. Out-of-hours, if an allegation is made which suggests the possibility of immediate harm to the child, Operational Police officers should advise their line-managers and the on-duty Vulnerable Persons Team (VPU). A telephone call should also be made to the Emergency Duty Team in these circumstances to report the incident and request further advice.

6. RESPONDING TO AN ALLEGATION MADE TO KNOWSLEY CHILDREN'S SOCIAL CARE

- 6.1 If the allegation is received by Knowsley MASH Team, the Team Manager/Senior Practitioner must ensure that the completed allegations referral form is sent to the LADO within 24 hours of being made aware of the allegation.

7. INITIAL CONSIDERATIONS & ACTIONS BY LADO

- 7.1 The Senior Manager and LADO must consider the nature, content, and context of the allegation and agree a course of action together. They must therefore:
- **Establish that the complaint/allegation is within the scope of these procedures.**
 - **Verify whether there is evidence or information that establishes that the allegation is false or unfounded.**
 - **Consider whether further details are required (i.e. such as previous history, whether child/family have made similar allegations, and current contact with children).**
- 7.2 This initial sharing of information and evaluation may lead to a decision that no further action is to be taken in regard to the individual facing the allegation or concern, and the manager will then decide how best to proceed within their organisation.
- **Establish that the complaint/allegation is within the scope of these procedures.**
 - **Verify whether there is evidence or information that establishes that the allegation is false or unfounded.**

- **Consider whether further details are required (i.e. such as previous history, whether child/family have made similar allegations, and current contact with children).**
- 7.3 For all other cases, the discussion will then focus on agreeing a course of action including deciding whether the information meets agreed thresholds to hold a strategy meeting under child protection procedures & or an LADO allegations management meeting.
- 7.4 The advice of the LADO may also be sought where an employee's behaviour is a matter for concern because it compromises or may be seen to compromise the reputation and ability of the organisation to safeguard children . Some examples include:
- Contravened any safe practice guidance.
 - 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 or her own actions or those of others could adversely impact upon the safety and well-being of a child.
 - Demonstrated an inability to make sound professional judgments, which safeguard the welfare of children.
 - Failed to follow adequately policy or procedures relating to safeguarding and promoting the welfare of children.
 - Failed to understand or recognize the need for clear personal and professional boundaries in his or her work.
 - Behaved in a way in his or her personal life, which could put children at risk of harm.
 - Become the subject of criminal proceedings not relating to a child.
 - Become subject to enquiries under local child protection procedures.
 - Behaved in a way, which seriously undermines the trust and confidence placed in him or her by the employer.

Strategy Discussions

- 7.5 Where there is reasonable cause to suspect that a child has suffered, is suffering, or is likely to suffer significant harm, or where a lack of clarity remains, then a strategy discussion will take place **within 24 hours**. The LADO will be consulted as part of this process and it will involve Knowsley MASH, the Police, and the Senior Manager from any other relevant organisation. In some cases it may be that, the strategy discussion will agree upon the need for immediate investigative or protective action i.e. Section 47 or criminal investigations.
- 7.6 Alternatively, the strategy discussion may indicate that a Section 47 investigation is not required and will discuss alternative arrangements with the LADO including the matter being dealt with by the employer in

accordance with their own procedures. In other cases, a formal Allegations Management meeting may need to be convened.

Allegations Management Meetings

- 7.7 A formal professional Allegations Management meeting may be convened in response to an allegation; this will occur **within 5 working days**. The meeting will be coordinated and chaired by the LADO. Information shared is of a highly confidential nature and reports must not be copied without prior consent of the author of the report or chair. Attendees must have already provided any information they hold including, any previous concerns, training, DBS number, employment history, incident reports, etc etc.
- 7.8 All those invited to the Allegations Management meeting will receive minutes, which will carry a reference to confidentially. In convening, an Allegations Management meeting **consideration** must be given to inviting appropriate representatives from all of the agencies involved with a child/family, alongside representatives from inspectorates where this is in line with notification requirements.
- 7.9 While there may be a need to invite certain professionals with particular expertise on a case-by-case basis, Police, Children's Social Care MASH Team, and the employer (except where to do so may impede an investigation or place a child or young person at increased risk) must always be invited.

The Allegations Management meeting must:

- Share all relevant information.
- Consider the current allegation or concern and review any previous allegations or concerns made against the member of staff and/or the establishment.
- Decide whether there must be an s.47 enquiry / criminal investigation (if not already commenced).
- Scope and plan any s.47 enquiry / criminal investigation.
- Consider if an s.47 enquiry is appropriate, whether a complex abuse investigation is applicable.
- Allocate tasks agreeing any further action with timescales required and who is responsible.
- Identify who may need to be interviewed e.g. witnesses, staff, children – and who will do this: Decide who to inform and when (subject of allegations, child, parents)
- Make recommendations regarding immediate suspension without prejudice, disciplinary, competency, regulatory or complaints procedures.
- Agree criteria for a re-referral where new evidence comes to light suggesting that a further Allegations Management meeting needs to be convened.

- Agree arrangements for the outcome of any internal process to be reported to the LADO.
- Set a date for a review Allegations Management meeting that must occur, wherever possible, **within 28 days** of an initial Allegations Management meeting.

8. RESTRICTIONS ON IDENTIFYING TEACHERS WHOM ALLEGATIONS OF CRIMINAL MISCONDUCT HAVE BEEN MADE.

- 8.1 With effect from 1 October 2012, the Education Act 2011 introduced reporting restrictions preventing the publication of any material that may lead to the Identification of a teacher who has been accused by, or on behalf of, a pupil from the same school (where that identification would identify the teacher as the subject of the allegation).
- 8.2 The reporting restrictions apply until the point that the accused person is charged with an offence, or until the Secretary of State or the General Teaching Council for Wales publishes information about an investigation or decision in a disciplinary case arising from the allegation. The reporting restrictions also cease to apply if the individual to whom the restrictions apply effectively waives their right to anonymity by going public themselves or by giving their written consent for another to do so or if a judge lifts restrictions in response to a request to do so. Breaching the reporting restrictions is a criminal offence.
- 8.3 The case manager must take advice from the LADO, police, and children's social care services to agree the following:
- Who needs to know and, importantly, exactly what information can be shared.
 - How to manage speculation, leaks, and gossip.
 - What, if any information can be reasonably given to the wider community to reduce speculation; and
 - How to manage press interest if and when it must arise.

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

9. USE OF SUSPENSION.

- 9.1 Working Together states that suspension must 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.
- 9.2 Suspension is a neutral act and must not be seen as an automatic

response or a default option to an allegation. A decision to suspend without careful thought could impede a police investigation.

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

10. REVIEW ALLEGATIONS MANAGEMENT MEETING.

10.1 The time taken to investigate and resolve individual cases depends on a variety of factors, including the nature, seriousness, and complexity of the allegations. However, it is in everyone's interest to resolve cases as quickly as possible, consistent with a fair and thorough investigation. Every effort must be made to manage cases in order to avoid unnecessary delay. Individual agencies must ensure that they have in place the appropriate monitoring and review mechanisms to do this. The LADO will monitor and record timescales in respect of all cases and liaise with Senior Managers and appropriate bodies in the event of delay.

10.2 The Review Allegations Management Meeting will draw together all relevant information following the completion of enquiries by Knowsley Children's Services, the Police and any other agency (as appropriate), and make multi-agency decisions about any further action to be taken in the case, including timescales for completion.

10.3 Where difficulties have been encountered by investigative agencies the review will also provide an opportunity to clarify what these are, to identify solutions, make further plans and agree upon timescales.

10.4 Must enquiries take longer than the initial four-week period, then the case will be reviewed at appropriate intervals agreed in the Allegations Management Review Meeting.

10.5 The LADO will monitor the progress of cases either via:

- Review Allegations Management discussions/meetings **or**
- By liaising with the Police, Children's Social Care, employers, and regulatory bodies/inspectorates as appropriate.

11. RESIGNATIONS AND SETTLEMENT AGREEMENTS

11.1 The fact that a person tenders his or her resignation or ceases to provide their Services must not prevent an allegation from being followed up in accordance with these procedures and a formal conclusion reached.

11.2 Wherever possible, the subject of the allegation must be given an opportunity to answer the allegation and make representations. Any enquiries and investigations must continue to a conclusion even if the person refuses to co-operate; decisions will be taken on the strength of

what is known in the event that an individual chooses not to make representations.

12. DISCIPLINARY CONSIDERATIONS

- 12.1 Where the initial consideration decides that the allegation does **not** meet the LADO criteria, it will be dealt with by the employer in accordance with the organisation's procedures as quickly as possible. The LADO will oversee all investigations and provide advice and guidance.
- 12.2 If disciplinary action is required, it must be carried out in accordance with the employer's procedures. These must be resolved as quickly as possible.
- 12.3 If the Police or Crown Prosecution Service decides not to charge or to administer a caution, or if the person is acquitted, the Police must ensure that all relevant information is made available to the employer without delay. Police and Social Care must seek permissions to share statements etc where relevant. Where this does not occur, the LADO will liaise with the Police Senior Manager.
- 12.4 If the person is convicted, the Police must inform the employer and LADO immediately to enable the employer to take any appropriate action. This will normally be via a review Allegations Management meeting to share the information and plan next stages. Referrals to regulatory bodies will be discussed at that meeting.
- 12.5 Consideration must be given at the beginning of enquiries to gaining consent from those involved to use the statements obtained and information gathered in disciplinary proceedings. This will enable information sharing to take place at the earliest opportunity.

13. RECORD KEEPING

- 13.1 Employers must keep a clear and comprehensive summary of the case record on a person's confidential personnel file and give a copy to the individual.
- 13.2 The record must include details of how the allegation was followed up and resolved, the decisions reached and the action taken. It must be kept at least until the person reaches normal retirement age or for ten years if longer.

13.3 The record must also contain details of the category into which the allegation falls, as follows:

- **Substantiated** – A substantiated allegation is one which is supported or established by evidence or proof:
- **Unsubstantiated** – An unsubstantiated allegation is not the same as a false allegation. It simply means that there is insufficient identifiable evidence to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence:
- **Unfounded** – This indicates 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. For an allegation to be classified as unfounded, it will be necessary to have evidence to disprove the allegation:
- **Malicious** – This implies a deliberate intention to deceive. A malicious allegation may be made by a child following an altercation with a member of staff or a parent who is in dispute with the organisation. For an allegation to be classified as malicious, it will be necessary to have evidence, which proves this intention.

13.4 Each employer must ensure that they have appropriate policies and procedures in place governing record retention and suitable arrangements for the secure destruction/disposal of records at the end of their lifecycle.

13.5 The LADO must be informed of the outcome of any action taken by the employer. Copies of the investigation file must be mailed to the LADO so that it can be demonstrated that a thorough and impartial investigation has been conducted.

13.6 The record will provide accurate information for any future reference and provide clarification if a future DBS disclosure reveals an allegation that did result in a prosecution or conviction. This record will prevent unnecessary re-investigation if the allegation must resurface.

13.7 Employers must ensure that they have procedures in place to alert those with a need to know that more detailed information regarding an allegation than that contained in an employee's personnel record is held elsewhere by the LADO.

13.8 Each employer must implement policies and procedures to govern the disclosure of information relating to allegations in response to requests for employment references.

14. MONITORING PROGRESS

- 14.1 The LADO will keep comprehensive records in order to ensure that each case is being dealt with expeditiously and that there are no undue delays.
- 14.2 The record will assist the LSCB to monitor and evaluate the effectiveness of the procedures and provide statistical information to the Department for Further Education (DFE) and OFSTED if required.
- 14.3 The Police can consult the Crown Prosecution Service (CPS) at any stage regarding the evidence needed to charge a person, but they must also set target dates for reviewing the progress of the investigation and consulting the CPS about charging, continuing, or closing the investigation.

15. ACTION IN RESPECT OF FALSE/MALICIOUS ALLEGATIONS

- 15.1 If an allegation has been deliberately invented or malicious, the Police must be asked to consider whether any action might be appropriate against the person responsible.

16. REFERRAL TO DISCLOSURE AND BARRING SERVICE (DBS) OR REGULATORY BODY

- 16.1 If an allegation is substantiated and the person is dismissed, if the employer ceases to use the person's services, or the person resigns or otherwise ceases to provide his/her services, decisions need to be taken about the need for referrals to be made to Disclosure and Barring Service or Education. This will enable the regulatory bodies to consider whether the individual should be barred from, or have conditions imposed in respect of, working with children. The LADO can and must offer this advice although recommendations may already have been made at an Allegations Management meeting. The LADO must also advise whether it is appropriate to make a referral to a professional body or regulator and, if so, it must be made **within one month of the decision to refer**.

Process for managing allegations against those who work with children

