

CHAPTER THIRTEEN

Allegations against a person who works with, or is in contact with, children in a work or care setting, including volunteers

Introduction

This chapter concerns allegations against staff members, foster carers, volunteers and others who are regularly in contact with children, including prospective adopters. Throughout the chapter reference to staff members should be taken as referring to other groups where appropriate.

13.1 Children can be subjected to abuse by those who work with them in any and every setting. All allegations of abuse or maltreatment of children by a professional, staff member, foster carer, volunteer or any other person in contact with children must be taken seriously and treated in accordance with consistent procedures. The “Breach of Trust” offences reflect the seriousness with which such abuse should be taken.

13.2 These procedures are designed to ensure that if allegations of abuse are made, or there is any suspicion, appropriate enquiries are made such that children are protected and public confidence in services maintained. They apply whether the allegation or suspicion arises in connection with:

1. The individual's own work
2. His or her own children
3. Other children living outside the family

and whether the concern is current or historical.

13.3 All allegations or suspicions of abuse by a professional, staff member, foster carer or volunteer (from LSCB member agencies) should be taken seriously and treated in accordance with these procedures. Other organisations which provide services for children (including day care, independent schools, leisure, churches and voluntary services) should have a procedure for handling allegations which is consistent with these LSCB inter-agency procedures.

13.4 These procedures should be followed in all cases in which there is an allegation or suspicion that a person working with children 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

- Otherwise behaved towards a child or children in a way that indicates s/he is unsuitable to work with children

This should include indications that the person has employed behaviour which could constitute grooming.

Principles of Good Practice in Working With Children

13.5 Children who are looked after by the local authority, or who are receiving health, education or recreational services have a right to receive the highest possible standards of care and to be protected from abuse while in the care of adults outside the family.

13.6 Employing agencies and others who provide services to children have an active duty to have in place basic safeguards including:

- Rigorous recruitment and selection procedures which create a high threshold of entry to deter and detect abusers; and include awareness training for decision makers
- Guidelines for staff behaviour which promote safe care and promote the welfare of children
- Clear procedures and support systems for dealing with expressions of concern by staff and carers about other staff and carers
- Clear internal processes for responding to suspicion or allegations of abuse which support these agreed inter-agency procedures
- Clear information on where staff and managers can seek advice

13.7 Additionally, all agencies must have mechanisms to identify patterns of complaints or concerns raised about a staff member which taken together raise suspicion of significant harm and therefore warrant referral. Minor complaints or concerns must be considered with this in mind.

13.8 Assistance to agencies in relation to their duties is provided in the Practice Guidance on Safe Employment and Care Practices.

13.9 Principles of Good Practice in Considering Suspicions of Abuse

- All Staff should be aware that all children can be vulnerable when cared for outside their own home, particularly when they are living away from home. Those factors which increase vulnerability to abuse within their own family such as being very young, disabled or in an isolated, closed family also apply when cared for by others.
- All staff who work with children have a personal responsibility to report suspicions or allegations of abuse. This also applies when the suspicion is raised against a colleague.
- Everyone involved with suspicions or allegations of abuse by staff should maintain an open and enquiring mind.
- All allegations and concerns should be reported to the Local Authority Designated Officer.
- If the suspicion or allegation is about physical contact the strategy discussion should take account of the fact that staff in certain settings have to manage difficult behaviour. In particular Section 550A of the

Education Act 1996 sets out when teachers and other school staff may use reasonable force to manage disruptive behaviour. Residential care staff employed by the children & young people's service are given similar guidance. Wherever possible, staff who operate in such settings should receive suitable training about when physical intervention should be employed, and about the use of appropriate restraint techniques.

- The risk of harm posed by the person under investigation will be carefully evaluated and managed – in respect of the child(ren) involved and any other children in the individual's home, work or community life.
- Any enquiry/investigation may well have three related, but independent strands, all of which need to be thoroughly assessed and a definite conclusion reached. These strands are:
 - Child protection enquiries relating to the safety and welfare of any children who are or may have been involved
 - A police investigation into a possible offence
 - Disciplinary investigations, where it appears that allegations may amount to misconduct or gross misconduct on the part of staff. A similar, if simpler, process should be in place for concerns about volunteers, foster carers etc.

The common facts are to be applied independently to each of the three strands of possible enquiries/investigations.

- The fact that a prosecution is not possible, because there is insufficient evidence to mount a criminal prosecution, does not mean that action in relation to safeguarding children or employee discipline is not necessary or feasible.
- The pressure on those working with or caring for children should be recognised but with a clear focus on the safeguarding of children. Treating staff fairly requires effective and sensitive arrangements to be made by agencies for the support of those about whom allegations are made. This should include keeping the person informed about the progress of the investigation and processes involved, except where advising of the fact of an allegation could impede investigations.
- Investigations should be completed without delay, consistent with their effective conduct. There should be agreed written timescales which avoid delay, at every stage of the process. Consideration should be given to fast tracking cases involving childcare professionals. For normal time scales see 13.57 to 13.62 below.
- Information about allegations against staff should be restricted to those who need to know in order to protect children, investigate the allegation and manage the disciplinary/complaints aspects. Any breach of confidentiality may lead to disciplinary action. Information about criminal investigations will not usually be made public until a person is charged with a criminal offence.
- Parents/carers of involved children (and children where appropriate), should be given information about the concerns and advised about the

processes to be followed, and about the outcomes reached. The aim will be to advise them as soon as possible. In the case of older young people, especially those looked after by the local authority, attention should be paid to their wishes as regards information to be provided to their parents, carers or other family members. The timing and manner of doing so may be discussed with the LADO but must not hinder the investigation and any disciplinary process.

- Where the child has suffered significant harm, or there is a criminal prosecution, children's social care and the police should discuss what support the child and his/her family may need, including therapeutic services.
- Everyone dealing with children should be alert to any sign or pattern which suggests that abuse is more widespread or organised than first appears, or that it may involve fraud, deception or abusive images. It is important also to consider that boundaries may have been blurred or inappropriate behaviour by the staff member may have taken place, but that this may not indicate abuse.
- If abuse is substantiated, there is a duty for managers or commissioners of the service to consider general lessons, including features of the organisation which may have contributed to the abuse occurring or which may have failed to prevent it.

Role of Named Senior Officers (NSOs) and Local Authority Designated Officers (LADOs)

13.10 In line with Working Together (2006) each LSCB agency should have a named senior officer who has overall responsibility for ensuring that the organisation has and follows procedures for responding to allegations. Each local authority should designate officers to carry out specified tasks (see 13.12). Other organisations should have a senior manager whose responsibility it is to ensure that allegations are properly dealt with. For schools this should be the head teacher.

Named Senior Officer

13.11 Each Local Authority with responsibility for social care and education, the police and other LSCB member agencies should have in place a named senior officer who will:

- Take overall responsibility for ensuring that the agency deals with allegations appropriately and complies with guidance
- Resolve inter-agency issues
- Report to and liaise with the LSCB in relation to allegations

Local Authority Designated Officer

13.12 Each local authority will have designated officers who will

- Be involved in the management of individual cases

- Provide advice and guidance to schools and employers in regard to allegations and concerns, including when and whether to share information about the allegation with the staff member concerned. This will involve discussion with social care and police where there are child protection and/or criminal concerns
- Liaise with the police and other agencies
- Monitor the progress of cases to ensure they are progressed as quickly as possible
- Where appropriate challenge schools and employers if their decisions do not appear to ensure the protection of children.

Agency Senior Managers

13.13 All agencies, employers and schools should identify a senior manager within the organisation to whom allegations or concerns should be reported.

This person will:

- Ensure that all staff know who they are and how to bring concerns to their attention
- Ensure there is an alternative manager in case of absence or in case the concern relates to the agency senior manager
- Liaise with the LADO as necessary in relation to individual cases.

In addition, the Named Senior Officers, Agency Senior Managers and LADOs will be responsible for the following:

- Ensure that the individual agency or department has procedures consistent with the LSCB inter-agency procedures for dealing with instances of suspected abuse involving staff members
- Ensure that all relevant staff and managers are aware of the possibility of abuse by a member of staff, that they are aware of both LSCB and internal procedures for handling suspected cases of abuse and that they receive training as required. Local Authorities will need to emphasise the importance of this to Governing Bodies who should ensure that school staff are aware of the issues and trained as necessary
- Ensure that staff and managers seek advice from and report allegations, concerns and suspicions of abuse to the nominated senior officer
- Ensure that internal procedures are updated in line with developing LSCB procedures
- Provide liaison and oversee any enquiries involving a member of staff, co-ordinating any agency action to safeguard the welfare of children
- Ensure that there is appropriate liaison, which includes the LSCB and the media
- Monitor incidents and outcomes of such enquiries
- Maintain a confidential record of concerns about individuals in order to identify patterns over time

Process of Responding to Allegations and Suspicions of Abuse by Professionals, Foster Carers or Volunteers

Referral

13.14 Concerns about a member of staff may arise in many different ways, including:

- A direct allegation from a child or parent/carer
- A concern expressed by a colleague
- A criminal investigation
- Disciplinary procedures
- Complaints procedures
- Information from another authority

13.15 The concern may be contemporary in nature or historical or both.

Even when concerns are clearly historical, allegations may have implications for the safety of children now; and should be dealt with within these procedures.

13.16 All allegations or suspicions of significant harm must be referred to children's social care. The procedures set out in Chapter 4: Early Prevention and Referrals of Children In Need of Support and/or Protection must be complied with, in addition to the procedures in this chapter.

13.17 Further guidance on thresholds for referral is contained within the practice guidance on Safe Employment & Care Practices

13.18 If in doubt about the need to refer, the Named Senior Officer/ Agency Senior Manager within the agency should be consulted. Consultation with the LADO is also available to agencies. All allegations and concerns that meet the criteria in paragraph 13.4 even if they appear less serious, should be notified to the LADO, who will advise whether a referral to Social Care and/or the Police is appropriate... The LADO should also be informed of any allegations or concerns that come directly to the police or children's social care.

13.19 On receiving a referral indicating suspicion of abuse by a staff member or volunteer working with any agency, the social worker must inform and consult with their line manager. If a criminal offence may have been committed against a child, the social worker must advise the police immediately.

13.20 If it is decided, on the basis of the referral or subsequent initial discussion/assessment, that child protection enquiries are required; a strategy meeting must be held. The timescales are as for any referral – 24 hours to decide that an initial assessment is required, and up to 7 working days to complete an initial assessment. Once an investigation is under way and it has been agreed that the member of staff should be informed, agencies should

identify clear and named points of contact for regular updates, advice and support to the member of staff and their representatives in individual cases.

13.21 If it is decided that child protection inquiries or a criminal investigation is not necessary, the LADO should discuss the next steps with the employer or school. There may still be a need for the employer to consider the information and take steps to address the concerns raised, including whether the information indicates that the person may be unsuitable to work with children. The options will depend on the circumstances and the nature of the allegation and will range from taking no action, through advice, retraining, revision of internal guidance to disciplinary action.

Information Sharing

13.22 Where an allegation or concern arises that falls within this procedure, police and social care should bear in mind all three strands of the investigation. This includes the fact that information may be needed for disciplinary investigations even if the criminal or child protection inquiries do not proceed. From the beginning of any investigation, any necessary consent should be sought from witnesses to share information provided with the employer so that the employer's investigation can proceed without delay. This arrangement should be confirmed at the initial strategy meeting.

Child Protection Strategy Meetings

13.23 The strategy meeting will be chaired by a member of staff within children's social care with seniority commensurate with the sensitivity and potential complexity of the case.

13.24 Those to be invited to the strategy meeting will normally include:

- Police CAIU
- Social worker
- Named Senior Officer/Senior Manager from the agency
- Senior representative from the school where the allegation is school based.
- Fostering social worker for foster carers and team manager for residential care (where allegation is against a foster carer or residential social worker)

13.25 In certain circumstances it may also include:

- Legal advisers
- Relevant Health professionals
- The Children's Rights Officer if the case involves a child who is looked after.

13.26 Where a medical assessment has been carried out, a written report of the assessment should be made available to the strategy meeting.

13.27 See also the Chapter 5: Child Protection Enquiries, Including Medical Assessments.

13.28 The strategy meeting may include Human Resources (HR) advisers to provide employment information, but will not be the forum for determining disciplinary issues. Discussions about these should occur as soon as it is clear that misconduct may have occurred. It may be appropriate to hold a further meeting about these issues immediately after the strategy meeting. This further meeting should plan any disciplinary investigation and support to the member of staff involved. The Local Authority Designated Officer would advise the employer of the issues involved and act as a link between child protection and disciplinary investigations.

If the allegation is against a foster carer, and there are significant child protection concerns, consideration should be given to whether the child or other children should be moved. Having regard to the child's best interests.

13.29 *Where the suspicion relates to a member of staff within social care services, the enquiries must involve someone independent of the relevant service or from outside the authority.*

13.30 In order to meet this requirement the following will apply:

- Where concerns relate to a member of staff in one of the local authority's residential establishments, or against a foster carer, responsibility for initial consideration of the referral, co-ordinating and chairing the strategy meeting will rest with the Children and Young People's Safeguarding Unit in Leicester City, the Children and Young People's Safeguarding Unit in Leicestershire, and the Head of Service in Rutland.
- Where concerns relate to a member of staff within the fieldwork teams, or within any team providing services, SU (Leicester City), SU (Leicestershire) will co-ordinate and chair the strategy meetings. Consideration will be given to enquiries being made by a senior member of staff or by someone from outside the Authority.

Purpose of the Child Protection Strategy Meeting

13.31 The purpose of the initial strategy meeting is to plan the child protection enquiry and ensure that the three independent strands are managed. The details of these processes will be managed outside the child protection strategy meeting. The following factors are of particular significance where suspicions of abuse involve staff or volunteers:

- Identifying all the children who may be affected by the enquiries so that their protection can be considered

- Considering any medical information and whether a medical assessment is required
- Considering the protection of children known to the person who may pose a risk outside the workplace – his/her own children and children in other settings with whom there is paid or voluntary contact
- Considering whether a child protection conference is required in relation to the person's own children or in relation to other children with whom the person has personal contact
- Recommending to the employing agency any immediate action required to protect the interests of children during the course of enquiries
- Agreeing what statements, interviews and information needs to be collated by whom and in what order (this should include any recorded concerns in an individual's present and previous employment)
- Agreeing what is told to the person under suspicion, when and by whom and ensuring appropriate staff support is available.
- Informing those with parental responsibility, consulting them and providing support
- Agreeing a timescale for actions and for the next meeting if needed

13.32 The aim should be to conclude child protection enquiries within 15 working days. Where this timescale cannot be achieved, this should be explicitly considered at a further strategy meeting.

13.33 In complex situations, or where wider implications become apparent after the initial strategy meeting, there may be need to reconvene the strategy meeting several times to take stock of progress and agree further enquiries.

13.34 In each case there should be regular communication between the LADO, those undertaking the enquiries and the employer/school.

It is recommended that the Named Senior Officer/Agency Senior Manager establish a system to track all cases involving staff, volunteers etc within their own agency. The LADO will establish similar systems in relation to allegations relating to staff from all agencies.

Outcome of the child protection enquiries

13.35 The strategy meeting should normally reconvene at the conclusion of enquiries.

13.36 The purpose of this outcome meeting will be to:

- Record the agreed outcome of the child protection enquiries, with the reasons for reaching the conclusions explicitly stated
- Clarify the position of the other strands of investigation – criminal and disciplinary, including referral to the POCA, List 99 or the Vetting and Barring Scheme
- Provide relevant information to the other two strands of the process

- Make recommendations about any implications for general working practices within the organisation which the employing body should consider
- Make any necessary recommendations about the continuing needs of the child(ren) involved

Follow up of Strategy Meetings

13.37 Where there is a series of strategy meetings each should check on the progress of actions agreed at the previous meeting. Where there is only one meeting, or there is an outcome meeting the chair should follow up the agreed actions to ensure that they are pursued or that there is a good reason why they are not.

Disciplinary Investigations and Employment Issues

Suspensions

13.38 Where a serious allegation has been made employers should consider whether the member of staff should be suspended from duty. This would usually be for one or more of three reasons:

- The allegation is so serious that it would constitute gross misconduct and grounds for dismissal
- The person's continued presence could present risk of significant harm to the child or other children
- The person's continued presence could impede an investigation

Suspension should not be automatic. Advice should be sought from HR advisers who may assist with finding alternative arrangements to suspension.

13.39 Where, on conclusion of a case, it is decided that a person who has been suspended can return to work this process should be carefully managed. The person may need support to return to work. Also, if the child who made the allegation is still receiving services/at school, consideration should be given to the child's needs and how any contact will be managed. If a person works with, or is involved with, children in more than one setting the relevant agencies should confer about the return to work and/or caring.

Investigation

13.40 If there is no police or social care investigation or if a decision is taken not to proceed or a prosecution fails, the employer/school should still consider the allegation and information from police and social care relating to it. This information should inform but not pre-empt the employer's action. The criminal process has to establish guilt beyond reasonable doubt. The employer has to balance duty to the employee with the duty to protect children and reach conclusions based on the balance of probabilities.

13.41 In many cases the disciplinary investigation will be carried out by a senior officer in the organisation/school. This will be based on information gathered by police or social care where they have been involved, but may require interviews of the child, suspected person and any witnesses as well as the gathering of background information, including about previous similar concerns. In complex cases an independent investigation may be required.

The LADO should discuss this with the employer/school and agree arrangements. Further assistance should be available from the Human Resources section of the relevant agency.

Decision Making

13.42 It is important that a clear decision is taken at an appropriate level within the agency, whether to carry out an investigation, whether disciplinary proceedings should be instituted and the outcome of any proceedings.

Advice on these issues can be sought from the LADO. It is also important that the decision is clearly recorded and communicated to the individual and any relevant Government body.

No further action after initial consideration

13.43 Initial consideration means the discussion about whether the alleged incident constitutes an allegation within the scope of the LSCB procedures following discussion with the LADO, Social Care or the Police following which there may be no need for further action.

Outcome if substantiated

13.44 If the allegation is substantiated consideration should be given to the appropriate outcome. Depending on the nature and seriousness of the issue, this will range from advice or retraining through disciplinary warnings to dismissal. Where a person is dismissed or the agency decides not to renew a contract or use their services further, consideration should always be given to a referral to the Protection of Children Act list/List 99 or the Vetting and Barring scheme. Where an agency determines, following investigation that no further action is required, this decision should be discussed with the chair of the strategy meeting, where held, before any other action is taken.

Outcome if unsubstantiated

13.45 This is not the same as a false allegation. It simply means that there is insufficient identifiable evidence to prove or disprove the allegation. When an allegation is made every effort should be made to reach a clear conclusion.

However, in some cases it is not possible to be certain whether the allegation is true or not. In such cases it is still possible that lessons can be learned and action taken such as good practice discussions to reduce the possibility of similar allegations in the future.

Outcome if unfounded

13.46 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.

Outcome if malicious

13.47 This means there is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false.

13.48 Where it is clear that an allegation against a particular individual cannot be true, consideration should be given, involving social care, as to whether there may be other reasons for the allegation. **Great care should be taken in considering why the allegation was made. No ready assumptions should be made about allegations being false or malicious. Examples of such cases are extremely rare. It is known that victims of abuse can experience great difficulty in disclosing what has happened and retraction of an allegation once made is not unusual.**

Resignations and Retirement

13.49 In some situations a member of staff may resign or retire before an allegation can be investigated and action taken. It is important not to regard this as a solution to the problem. The investigation should be completed, conclusions reached about the allegation and appropriate action taken. The person should still be given an opportunity to answer the allegations if possible. The allegation and conclusions should be recorded and the notes retained. The person may also be known to be in contact with children in other settings and this should be followed up. Considerations should also be given to referring the person to the Protection of Children Act list or List 99 as appropriate.

‘Compromise Agreements’

13.50 In any case involving allegations or concerns about conduct towards children no ‘compromise’ agreement should be entered into involving resignation, avoidance of disciplinary action or provision of references.

Recording Allegations and Communicating Concerns

13.51 Where allegations or concerns about staff are investigated, a clear and comprehensive summary of:

- The allegation or suspicion
- The enquiries undertaken
- The outcome of those enquiries
- A clear account of decisions taken

- The reason for them

should be placed on the person's confidential personnel file and a copy provided to the person concerned. The record should be retained for a period of 50 years, including 20 years after the usual retirement age.

13.52 Organisations should have systems for ensuring that consideration is given to passing on information about child protection concerns when staff move including in employment references.

13.53 Where relevant, the outcome of enquiries must be communicated to government departments or professional bodies holding registers of those considered unsuitable to work with children. Each agency should identify specific post holders with this responsibility.

Specific Situations

Where allegations concern staff in institutions/ foster carers located outside the jurisdiction of the three Local Authorities

13.54 Suspicions or allegations of significant harm may involve children whose home address is within one of the three local authority areas covered by these procedures but who are residing outside the boundaries of the Home Authority. Responsibility for making child protection enquiries rests with the local authority in whose area the allegations arise. Liaison between authorities will be vital. The commissioning agency/ies should follow up to ensure that child protection enquiries are completed.

13.55 Where there are similar 'cross boundary' issues between the home authorities, the lead authority for managing the allegations process will be the one where the institution/carer is located.

Where allegations relate to senior staff in any agency, particularly those who might normally be expected to take a lead role in managing such situations

13.56 In such situations the investigation should be undertaken by a more senior officer from that agency or from another authority. The chief officer should be advised and may wish to manage the investigation. In cases of Assistant Chief Officer or above organisations should also take steps to notify the relevant government agency.

13.57 For smaller voluntary organisations a strategy meeting will determine how an investigation will be carried out.

Cross Boundary Issues

13.58 Where the child, member(s) or staff and the venue of the allegation are from different local authorities it is important to ensure that all LAs are

involved in discussions about the management of the allegation. Responsibilities for action will lie with the authority or agency normally responsible dependent on where individuals live or the venue is sited. Where a school or institution is involved any strategy meeting will be chaired by social care services from the Local Authority where it is situated.

Timescales

13.59 Every effort should be made to carry out investigations as quickly as possible to avoid disruption to services and unnecessary delay.

Information sharing should happen without delay.

13.60 Where an allegation or concern arises that does not require police or social care investigation, the employer should determine what action is needed within 3 working days.

13.61 If a strategy meeting is required, this should take place without delay and normally within 3 working days.

13.62 At each strategy meeting the police, where involved, should give an estimate of the time required to carry out investigations. This should be kept under review. The officers investigating both child protection and criminal aspects should provide regular updating information to the LADO and the agency senior officer (where different) fortnightly or at monthly intervals, depending on the complexity of the case.

13.63 Where police or social care investigation is needed and concluded, the employer should determine whether a further investigation is needed within 3 working days. Where a further investigation is needed, the investigating officer should aim to complete the investigation within 10 working days. Where this is not possible, the employer should be informed and an estimated time of completion established.

13.64 Where a disciplinary hearing is required, without or on completion of an investigation, this should be held within 15 working days.