

Cheshire, Halton and Warrington

Local Safeguarding Children's Board

**Managing Concerns of Suitability and
Allegations of Abuse Against Adults
Who Work With Children and Young
People**

Procedural Guidance

1 Introduction

- 1.1 Experience shows that children can become victims of 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 Arrangements therefore for managing concerns or allegations of this nature should be robust and effective in keeping children safe. All allegations should be taken seriously, approached with an open mind, and not driven by pre-conceived opinions about whether a child has or has not been harmed.
- 1.3 Measures put in place in managing enquiries should be proportionate and timely, open to challenge, and in the best traditions of collaborative working, as set out in statutory guidance. Paragraphs 6.20 to 6.30 of Working Together (2006) apply, together with more detailed advice contained in Appendix 5 of that publication.
- 1.4 These procedures must be applied when there is a concern or an allegation that any person who works with children and young people, in connection with his/her employment or voluntary 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; or**
 - **Behaved towards a child or children in a way that indicates s/he is unsuitable to work with children.**

NB This will include carers in a pre-adoptive situation.
- 1.5 Any allegation of abuse made by a child or young person against an adult who works in any of these settings must be investigated through these procedures
- 1.6 There are up to 3 strands in the consideration of an allegation:
 - **A Police investigation of a possible criminal offence**
 - **Children Social Care enquiries and/or assessment about whether a child is in need of protection or services**
 - **Consideration by an employer of disciplinary action**

- 1.7 These procedures do not apply to matters that amount to bad or poor practice, which remain within normal line management arrangements.

The procedures will also apply where:

- It is discovered that a person who is or has been working with children or young people has been previously involved in child abuse
- An allegation of abuse has been made against a person working with children but the allegation does not relate to the working environment eg. allegations by their own children.
- An allegation of abuse is made against a partner, member of the family or other household member and where an assessment gives rise to concern about the safety of children or young people with whom the person has contact within his/her work or voluntary activity.

2 Roles and Responsibilities

- 2.1 **Each LSCB member agency** must identify a **named senior officer** who will usually be their representative on the LSCB and occupies a strategic role within their organisation. They will have overall responsibility for:

- Ensuring the agency deals with allegations in accordance with these procedures
- Resolving any inter-agency issues
- Liaising with the LSCB
- Meeting with the Local Authority Designated Officer on a regular basis to discuss organisational response to allegations against professionals/professional carers.

- 2.2 **All** agency procedures should also identify a **senior manager** in an operational role to whom allegations or concerns should be reported, together with a deputy to cover their absence or to cover a situation where they are the subject of the allegation. For example: In **each** educational establishment the named senior manager will be the Head Teacher or the Chair of Governors where the allegation relates to the Head Teacher. In Children's Social Care the Senior Manager will be the Principal Manager of the relevant team and the Divisional Manager where the allegation relates to the Principal Manager.

- 2.3 **Each local authority has a Local Authority Designated Officer (LADO) in Children's Social Care. The LADO has specific responsibilities as follows:-**

- Be involved in the management and oversight of individual cases
- Provide advice and guidance to employers and voluntary agencies

- Liaise with the Police, Social Care, CPS and other agencies as required.
- Monitor the progress of cases to ensure that they are dealt with as quickly as possible consistent with a thorough and fair process
- Meet with Senior Named Officers on a quarterly basis to monitor organisational response to allegations made against professionals/professional carers. (To include Police, Health, Education and Divisional Manager for Looked after Children)

INFORMATION BOX: Definitions of Roles

NAMED SENIOR OFFICER: LSCB member organisations should have a named senior officer who has overall responsibility for; ensuring that their organisation operates procedures for dealing with allegations in accordance with the guidance in Appendix 5; resolving any inter agency issues and liaising with the LSCB on the subject. Meeting these responsibilities will require a strategic lead and access to up to date and relevant information regarding the management of allegations.

SENIOR MANAGER: The Senior Manager within the organisation has overall responsibility for ensuring procedures are followed at an operational level.

LOCAL AUTHORITY DESIGNATED OFFICER: All allegations will be referred to the LADO, who will oversee the whole process.

AGENCY ADVISOR/OVERSEER: Large organisations may have access or input from an advisor to assist in developing procedures, policies and practices relating to safeguarding children and young people. This advisor can also be used to advise the named senior officer when an allegation is made against an adult. For example in Halton within the Children & Young People's Directorate there is an education safeguarding officer who will act as advisor to all schools when allegations are made against staff/volunteers and they should be contacted at the outset.

2.4 The Cheshire Constabulary's representative on the LSCB will:

- Have strategic oversight of the local Police arrangements for managing allegations against staff and volunteers
- Liaise with the LSCB on the issue
- Ensure compliance

2.5 The relevant Cheshire Constabulary Area Public Protection Unit manager will:

- Liaise with the Local Authority Designated Officer

- Take part in the strategy discussions
- Review the progress of cases where there is a Police investigation
- Share information as appropriate, on completion of an investigation or related prosecution.

3 Raising Concerns

- 3.1 Staff should be aware that children and young people may feel unable to express concerns. All staff should therefore be aware that they have a legal duty to take action, if the concern is about the safety of children. They should be aware that they should voice concerns about the attitude or actions of their colleagues in accordance with the relevant internal policy on raising concerns regarding colleagues. This should be given to all new employees and made available to all staff.
- 3.2 If a member of staff believes that a reported allegation or concern is not being dealt with appropriately, she/he should report the matter to a senior person within their agency, to their designated/named officer for child protection or the Local Authority Designated Officer.
- 3.3 Historical allegations should be responded to in the same way as contemporary concerns. It is important to establish if the person is still working with children and if so inform the current employer or voluntary organisation.

4 Allegations Against Staff in their Personal Lives

- 4.1 If an allegation of abuse or neglect of a child, outside of the work environment, is made against a person known to be working with children in a paid or voluntary capacity, **and** gives cause for concern about the children with whom they have contact during the course of their work, the Local Authority Designated Officer should be advised and this procedural guidance will apply

5 Investigation – Key principles

- 5.1 An investigation must:-
- Be conducted in a way that is consistent with statute and guidance, and Pan Cheshire Multi Agency Safeguarding / Child Protection Procedures
 - Relate to all affected children regardless of their living environment.
 - Be independent of the immediate line management of those against whom allegations have been made.

INFORMATION BOX

Risk Assessments

A core aspect of all investigations will be an **initial risk assessment** based on available information and professional judgement, These assessments will examine risks identifiable in respect of: -

- a) The immediate safety of any children in contact with the individual by virtue of his or her role.
- b) The alleged adult's own children; his/her partner's children; and children of their extended family or friends where there is significant contact or an actual caring role.
- c) Any other children with whom he or she may have contact through employment.
- d) Any children he or she may have contact with outside of employment and/or in the general community.

6 Initial Action

6.1 The person to whom an allegation or concern is reported should:

- Treat the matter seriously
- Communicate as appropriate to the child's age, understanding and preferred language
- Avoid leading questions and keep an open mind
- Not question the child
- Take any immediate action necessary to protect the child Make a written record of the information (where possible in the child's own words) including the time, date and place of incident(s), persons present and what was said.
- Sign and date the written record
- Immediately report the matter to the designated senior manager
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- Sign and date the written record
- Immediately report the matter to the designated senior manager
- Where the designated senior manager is either the subject of or implicated in the allegation, their line manager should be informed.

6.2 The person to whom a concern or allegation is reported **should not** attempt to investigate the matter, or:

- Interrupt a child when recalling significant events

- Make assumptions or interpretations
- Make suggestions or offer alternative explanations
- Promise the child, or other person making the allegation confidentiality, but give assurance that the information will only be shared on a 'need to know' basis.

7 Initial Action by the Designated Senior Manager/Officer/Employer

7.1 When informed of a concern or allegation, the designated senior manager **should not** investigate the matter or interview the member of staff, child or potential witnesses. **But should:**

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

7.2 If the allegation meets the criteria described in paragraph 1.4, the Designated Senior Manager should report it to LADO within **one working day**. Referral should not be delayed in order to gather further information. The referral can be made verbally but must be followed up in writing within **3 working days**.

7.3 In the event that an allegation requiring immediate attention is received outside normal office hours, the designated senior manager should consult with the Children's Social Care Emergency Duty Team or local Police and inform the local authority designated officer the next working day and this should be followed up in writing **within 3 working days**.

7.4 If any agency worker receives an allegation, they should, without delay, report it to the named senior manager within their organisation. Who should then immediately liaise with the LADO.

8 Response from Local Authority Designated Officer

8.1 The Local Authority Designated Officer must be informed of **all** allegations that come to the employer's attention **and** appear to meet the criteria set out in paragraph 1.4, so that they can consult with the Police and Children's Social Care colleagues as appropriate.

- 8.2 The Local Authority Designated Officer should first establish, in discussion with the employer, that the allegation is within the scope of these procedures (see paragraph 1.1) and may have some foundation.

INFORMATION BOX

Thresholds

Physical Intervention:

Residential Child Care Workers, Teachers, Foster Carers, Health Workers in Residential Children's Homes, Hospital Staff and Early Years Professionals are all prohibited by law from applying more than specified types and levels of restraint to those children for whom they are professionally responsible

Conduct

Volunteers who work with children are also expected to maintain standards of conduct comparable to those prescribed for colleagues in paid employment

All members of staff who are registered with professional bodies must adhere to their professional codes of conduct.

Abuse of Trust

It is an offence under the Sexual Offences Act 2003 for a person over the age of 18 to have sexual relationship with a child under the age of 18, where that person is in a position of trust in respect of that child, even if the relationship is consensual

- 8.3 If the allegation **is not** clearly false and there **is** cause to suspect that a child is suffering immediate harm or is likely to suffer significant harm, the Local Authority Designated Officer should immediately make a referral to Children's Social Care and a Section 47 Enquiry will be initiated.
- 8.4 There are some circumstances where the employer may need to directly advise parents of an incident involving their child e.g. if the child was injured while in the organisation's care and requires medical treatment. In these circumstances the employer should take care not to say anything that could jeopardise the ability to conduct a proper investigation.
- 8.5 In advance of the Strategy Meeting, if the parents/carers of the child concerned are not already aware of the allegation, the Local Authority Designated Officer will discuss how and by whom they would best be informed. In cases where the Police and Children's Social Care are

involved, the Local Authority Designated Officer should consult these colleagues about how to best inform parents.

- 8.6 The Local Authority Designated Officer should at the outset of any referral received inform all the relevant regulatory bodies, e.g. OFSTED, general Social Care Council (GSCC).
- 8.7 The Local Authority Designated Officer should consider whether the nature of the allegation indicates immediate risk to the alleged perpetrator's own children.
- 8.8 Should the Local Authority Designated Officer find that there may be immediate risk of harm to the alleged perpetrator's own children they must put into place any actions required to safeguard them.

9 The Strategy Meeting

9.1 The initial strategy meeting must take the form of a face-to-face meeting. In exceptional circumstances this meeting may be conducted by telephone. The participants should be sufficiently senior to contribute all relevant available information about the allegation, child and accused person. The participants must also be able to make decisions on behalf of their agencies. The Participants could include:

- Local Authority Designated Officer or designate
- Relevant Social Worker and their manager
- Supervising Social Worker, if allegation is made against a local authority Foster Carer
- Sergeant from the Public Protection Unit or delegate
- Designated Senior Manager for the employer/establishment concerned
- Senior Representative of the employment agency or voluntary organisation if the member of staff or volunteer has been placed by them, unless it is alleged that they have colluded or failed to respond to previous complaints.
- Manager from the Fostering Service Provider when an allegation is made against a Foster Carer
- Those responsible for regulation and inspection where applicable e.g. OFSTED
- Human Resources representatives as appropriate
- Where a child is placed by or resident in another authority area, a representative from that area

9.2 There are up to 3 strands in the consideration of an allegation:

- A Police investigation of a possible criminal offence

- Children Social Care enquiries and/or assessment about whether a child is in need of protection or services
- Consideration by an employer of disciplinary action

9.3 The initial strategy meeting will:

- Review any previous allegations made against the accused person
- Decide whether there should be a s.47 enquiry and/or a Police investigation and consider the implications
- Consider whether any parallel disciplinary process can take place
- Consider whether a complex abuse investigation is applicable
- Scope and plan enquiries if needed, allocate tasks and set timescales
- Decide what information can be shared with whom.
- Ensure that arrangements are made to protect the child/ren involved and any other child/ren affected, including taking emergency action where needed
- Consider what support should be provided to all children who may have been affected directly or indirectly. This should include any specific individual needs, including disabilities / learning, communication difficulties.
- Decide how the child(ren), if sufficiently mature should be helped to understand the processes involved and be kept informed about the progress of the case.
- The views, wishes and feelings of the child / young person, should be considered in the decision making process.
- Consider what support should be provided to protect the accused person and any others who may have been affected
- Ensure that investigations are sufficiently independent
- Make arrangements to inform the child's parents and those with Parental Responsibility and consider how to provide them with support and information during enquiries
- Where the allegation relates to physical contact, consideration must be given to whether it complies with the conditions certain professionals work to relating to the use of physical intervention and using reasonable force e.g Education Act 1996 s. 550a.
- Make recommendations where appropriate regarding suspension, or alternatives to suspension, of the accused person
- Identify a lead contact manager within each agency
- Agree protocols for reviewing investigations and monitoring progress by the Local Authority Designated Officer, having regard to target timescales
- Should the allegation breach the accused person's Professional Code of Conduct consideration must be given to when the allegation will be referred to accused person's regulatory body, e.g. GSCC.

- Future needs of the establishment and strategies where abuse is considered to be widespread
- Appropriate applications for criminal injuries compensation
- Possible claims for compensation and alerting insurers
- Media interest
- Sharing of information for disciplinary or suitability processes, including the use of any record of video interviews
- If required, agree a date for a further meeting.
- The meeting will conclude with actions, person responsible for such actions and within what timescale.
- The minutes of meeting will be distributed within a maximum of 15 working days.
- If a strategy discussion/initial evaluation is to be held or if Children's Social Care or the Police are to make enquiries, the Local Authority Designated Officer should canvas their views on suspension and inform the employer. Only the employer, however, has the power to suspend an accused employee and they cannot be required to do so by the Local Authority or Police.

9.4 Where the accused person works for another organisation the Local Authority Designated Person will need to inform the Senior Manager within that organisation who has overall responsibility for ensuring these procedures are followed at an operational level. A final strategy meeting may be held at the end of enquiries to ensure that all tasks have been completed and where appropriate, to agree an action plan for learning lessons in order to inform future practice

9.5 The Local Authority Designated Officer will advise the employer about the point at which a person against whom the allegation has been made can be informed. It is important that the timing of this does not impede any investigations. It is likely therefore that the Local Authority Designated Officer will consult with the Police and/or the relevant Children's Social Care.

INFORMATION BOX

Confidentiality

All agencies have a duty to ensure that every effort is made to maintain confidentiality and guard against publicity, while an allegation is being investigated or considered. Information should be restricted to those who have a need to know in order to protect children, facilitate enquiries, and manage related disciplinary and /or suitability processes or protect any rights of the accused person

Police will not normally provide identifying information to the press or media, unless and until a person is charged, unless there are exceptional circumstances, e.g. an appeal to trace a suspect. The reasons should be documented and partner agencies consulted before any press statements are released.

10 Monitoring Progress

- 10.1 The Chair of the Strategy Meeting will monitor and record the progress of each case, either fortnightly or monthly depending on its complexity. This could be by way of formally reviewing the strategy meeting or by direct liaison with the Police, Children's Social Care or the accused person's employer as appropriate. Where the target timescales cannot be met the Chair of the Strategy Meeting must record the reasons and the LADO must be informed.
- 10.2 The Local Authority Designated Officer will maintain comprehensive records in order to ensure that each case is being dealt with expeditiously and that there are no undue delays. The records will also assist the LSCB to monitor and evaluate the effectiveness of the procedures for managing allegations and provide statistical information to the DCSF as required.
- 10.3 The Chair (or delegate) of the Initial Strategy Meeting and subsequent monitoring meetings must load the information of this meeting and any subsequent reviews or contacts onto the LADO database within 3 working days.

INFORMATION BOX

Timescales

It is in everyone's interest for cases to be dealt with expeditiously, fairly and thoroughly and for unnecessary delays to be avoided. The target timescales provided in these procedures are realistic in most cases, but some cases will take longer because of their nature, seriousness and complexity

The aim should be to resolve 80% of cases within 1 month, 90% within 3 months and all but the most exceptional cases within 12 months. It is recognised, however that cases requiring a criminal prosecution or complex police investigation may not be completed in less than 3 months.

11 Support

11.1 Children's Social Care or the Police as appropriate should consider support for a child who may have suffered significant harm, or where a criminal prosecution is possible.

11.2 The person against whom the allegation is made should be:

- Treated fairly and honestly and helped to understand the concerns expressed and processes involved
- Kept appropriately informed of the progress of the case and outcome of any investigation and the implications for any disciplinary or related processes
- Provided with appropriate support during the case (via Occupational Health or employee welfare arrangements where those exist.)
- Be kept informed about the developments in the workplace if suspended
- Advised at the outset to contact her/his Union or Professional Organisation
- Foster carers and Prospective Adopters will be offered continued support by the Adoption and Fostering Team and/or support independent of the department throughout the investigation process.

12 Unsubstantiated and False Allegations

12.1 Action in respect of Unsubstantiated Allegations

Where there is insufficient evidence to substantiate an allegation the employer should consider what further action, if any, should be taken.

12.2 Action in Respect of False Allegations

False allegations are rare and may be a strong indicator of abuse elsewhere which requires further exploration. If an allegation is determined to be false, the employer, in consultation with the Local Authority Designated Officer should refer the matter to Children's Social Care to determine whether the child is in need of services, or might have been abused by someone else.

- 12.3 If it is established that an allegation has been deliberately invented, or is malicious, the Police should be asked to consider what action may be taken.

13 Disciplinary Process or Assessment Regarding Suitability

13.1 Disciplinary or Suitability Process and Investigations

The Local Authority Designated Officer and the Designated Senior Manager in the employing agency will discuss and agree what action is appropriate in all cases where:

- It is clear at the outset or decided by a strategy discussion or initial evaluation that investigations by Police or enquiries by Children's Social Care are not necessary
- The employer or Local Authority Designated Officer is informed by the Police or the Crown Prosecution Service that a criminal investigation and any subsequent trial is complete **and what the outcome was**, or that an investigation is to be closed without charge, or a prosecution discontinued.

- 13.2 The discussion should consider any potential misconduct or gross misconduct on the part of the staff member and must take into account the information provided by the Police and/or Children's Social Care, the result of any investigation or trial and the different standards of proof in disciplinary and criminal proceedings. The options will range from no further action to summary dismissal or not using the person's services in the future.

- 13.3 If formal disciplinary action is not required, the employer should institute appropriate action within 3 working days. If a disciplinary hearing is required and it can be held without further investigation, the hearing should be held within 15 working days.

- 13.4 If further investigation is needed to decide upon disciplinary action, the employer and the Local Authority Designated Officer should discuss

whether the employer has appropriate resources or whether the employer should commission an independent investigation because of the nature and/or complexity of the case and in order to ensure objectivity.

- 13.5 The aim of the investigation is not to prove or disprove an allegation, but to obtain, as far as possible, a fair, balanced and accurate record in order to consider the appropriateness of disciplinary action and/or the individual's suitability to work with children. All possible steps must be taken to avoid repeated interviewing of children.
- 13.6 If, at any stage, new evidence emerges which make a referral to Children's Social Care and/or the Police necessary under child protection procedures, the investigation should be adjourned and only resumed if the Police or Children's Social Care indicate that it will not interfere with any child protection enquiries or criminal investigations. Consideration should also be given as to whether the accused person should be suspended pending the conclusion of the investigations.
- 13.7 The investigating officer should aim to provide a report within 10 working days. On receipt of the report, the employer should decide whether a disciplinary hearing is needed within 2 working days and if so, the hearing should be held within 15 working days.

INFORMATION BOX

Sharing information for Disciplinary Purposes

The Police and Children's Social Care should, during the course of their investigations and enquiries, obtain consent to provide the employer and/or regulatory body with statements and evidence for disciplinary purposes.

If the Police or Crown Prosecution Service decide not to charge, or decide to administer a caution, or the person is acquitted, the Police should pass all relevant information to the employer without delay.

If the person is convicted, the Police should inform the employer straight away so that appropriate action can be taken.

14 Suspension

- 14.1 The possible risks to children should be evaluated and managed in respect of the child/ren involved.

14.2 Suspension is a neutral act and it should not be automatic. However, it should be considered in any case where:

- There is cause to suspect a child is at risk of harm, or
- The allegation warrants investigation by the Police, or
- The allegation is so serious that it might be grounds for dismissal
- There is evidence/information to indicate that the person might/has interfered with the investigation or intimidated witnesses

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The feelings of the child/ren will be considered of paramount importance within the context of the above.

15 Resignation and Compromise Agreements

15.1 Every effort should be made to reach a conclusion in all cases even if:

- The individual refuses to cooperate, although s/he should be given a full opportunity to answer the allegation and make representations
- It is difficult to reach a conclusion
- It may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete

15.2 Compromise agreements must not be used i.e. where a person agrees to resign with no disciplinary action, and an agreed future reference.

16 Referral to List 99, PoCA List or Regulatory Body

16.1 If the allegation is substantiated and the person is dismissed or the employer ceases to use the person's services, or the person resigns or otherwise ceases to provide their services, the LADO should discuss with the employer whether a referral should be made for consideration as to the individual being barred from, or have conditions imposed in respect of working with children.

16.2 If it is agreed that a referral is required or desirable, the LADO should advise on the form and content of such a referral and whether it should be made to the Protection of Children Act List (POCA), DCSF or List 99.

16.3 The LADO should also advise whether it is appropriate to make a referral to a professional body or regulator.

- 16.4 The Vetting and Barring scheme is due to be introduced in the Autumn of 2008 and will replace POCA and List 99. Definitive advice has not yet been issued regarding how the scheme will operate and therefore this element of these procedures will be revised once this advice is issued.

17 Learning Lessons

- 17.1 If an allegation is substantiated, the details of the case should be presented to the Scrutiny / Monitoring / Performance Sub Group of the LSCB by the Local Authority Designated Officer to consider if any lessons can be learnt and whether any change in policy or practice is required.
- 17.2 The employer should also review the circumstances of the case 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.

18 Disagreements

- 18.1 If at any stage there is a disagreement between the LADO and the referring agency every attempt should be made to reach a resolution but where this is not achieved the LADO and the referring agency should refer the matter to their respective named senior officer for further joint consideration. This should be completed in a timely manner to ensure compliance with the overall timescale for these procedures. Thereafter if resolution is still not achieved the matter should be referred to the Director of Children's Services