



# **Procedure and Practice Guidance for Managing Allegations against Staff and Volunteers Working with Children**

**September 2021**

## Version Control

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## Contents

<b>Number</b>	<b>Section Title</b>	<b>Page(s)</b>
	Procedure Statement	4
1	Introduction	5
2	Roles and Responsibilities	6
3	Recognising and responding to an allegation	8
4	Initial Considerations	9
5	Information Sharing	11
6	Initial Action	13
7	Progress and Outcomes	17
8	Actions on conclusion of a case	22
9	Further information and Guidance and Regulatory Bodies	24
10	Process Map	25

## Managing allegations and concerns against staff, carers and volunteers who work with children

### PROCEDURE STATEMENT

The framework for managing allegations of abuse against people who work with children is set out in [Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children](#) (July 2018). Chapter 2 Organisational Responsibilities provides an overview and appendix 5 of *Working Together 2010* (now archived) provides detailed procedures on how allegations should be handled. [DfE, Statutory guidance for schools and colleges on 'keeping children safe in education'](#), September 2018 gives detailed guidance on how allegations should be managed in educational establishments. Additional Guidance is available from Safer Recruitment Consortium, [Guidance for safer working practice for those working with children and young people in education settings \(October 2015\)](#).

It is essential that any allegation of abuse made against a person who works with children and young people, including those who work in a voluntary capacity, are dealt with fairly, quickly and consistently, in a way which provides effective protection for the child and at the same time supports the person who is the subject of the allegation.

This procedure should be used by all organisations where people work with children and young people, including organisations that provide staff or volunteers that work with or care for children.

The aim of the Procedures is to:

- **Ensure that allegations are dealt with quickly and in a fair manner**
- **Prevent unsuitable people from working with children and young people**
- **Promote safe practice and challenge poor / unsafe practice**
- **Contribute to effective partnership working**
- **Improve practice through sharing experience and lessons learned**

This document explains how those procedures should be applied specifically in Darlington.

The Local Authority has appointed a Designated Officer (DO) to oversee the investigation of all allegations and to maintain detailed records of their conduct and the outcomes. The DO for Darlington is:

Officer	Telephone contact details	e-mail contact details
Marian Garland	01325 406451	designatedofficer@darlington.gov.uk

## 1. INTRODUCTION

- 1.1 Local Safeguarding Partnerships have a duty to ensure that there are effective inter agency procedures in place for dealing with allegations in respect of people who work with children and for monitoring and evaluating the effectiveness of the procedures.
- 1.2 These procedures are intended to provide guidance relevant to a wide range of situations in which an allegation or concern arises about the conduct of a person who 'works' with children. Reference to children within the document is intended to include anyone who has not yet reached their 18<sup>th</sup> birthday. All allegations of abuse or ill treatment of children must therefore be taken seriously and treated in accordance with these procedures.
- 1.3 Those covered by these procedures include:
- those in paid employment including temporary, casual and agency staff
  - individuals undertaking unpaid voluntary work
  - individuals who are self-employed and work directly, or are contracted to work in the provision of services to children
  - foster carers and approved adopters
  - regulatory bodies such as Ofsted in the case of child minders
  - This guidance covers those under the age of eighteen who are employed in the capacity outlined above

In addition, people whose role places them a position of trust will also be considered within the remit of these procedures.

In some circumstances, there may be more than one organisation involved, e.g. where staff who provide services for children in an organisation are employed by a contractor, or where agency staff are provided. In these circumstances, both the contractor or agency and the organisation in which the individual works need to be involved in managing the allegation.

- 1.4 The area responsible for implementing the procedure is determined by where the individual, who is the subject of the allegation or concern, works. Should the individual not work in Darlington, then the Designated Officer for the relevant area is to be notified.
- 1.5 These procedures should be applied in all settings and work places where employees, volunteers and regular visitors either work with children are in a position of trust and/or have a duty of care to children. This includes those who:
- work directly with children
  - work in a setting where children regard them as a safe and trustworthy adult;
  - have access to sensitive information regarding children

- are senior managers who have responsibility for appointing people to work with children
- 1.6 The framework for managing cases set out in these procedures applies to a wider range of allegations than those in which there is reasonable cause to suspect a child is suffering, or likely to suffer, significant harm. They should be used in respect of all circumstances where it is alleged that a person has:
- behaved in a way that has harmed, or may have harmed, a child
  - possibly committed a criminal offence against or related to, a child or
  - behaved towards a child or children in a way that indicates they may pose a risk of harm to children
  - behaved in a way or may have behaved in a way that indicates they may not be suitable to work with children
- 1.7 This can be in connection with his/her employment or voluntary activity or where:
- there are concerns about a person's behaviour or conduct in their personal or professional life that might indicate their unsuitability to work with children
  - concerns arise about a person's behaviour with regard to his / her own children and if they or their child have been subject to a child protection investigation
  - concerns arise about the behaviour in the private or community life of an individual, their partner, member of their family or other household member where there may be concerns around transferable risk, for example, where a person who works with children is involved in a domestic abuse incident at home and this may have implications for their suitability to work with children.
- 1.8 The procedures also apply where there are concerns relating to inappropriate relationships between those who work with children or young people as outlined in the [Sexual Offences Act 2003](#), namely:
- having a sexual relationship with a child under 18 if in a position of trust in respect of that child, even if consensual
  - 'Grooming', i.e. meeting a child under 16 with intent to commit a relevant offence
  - other 'grooming' behaviour giving rise to concerns of a broader child protection nature (e.g. inappropriate text / e-mail messages or images, gifts, socialising etc.)
  - possession of indecent images of children or use of the Internet to access indecent images of children
- 1.9 If an allegation relating to a child is made about a person who works with vulnerable adults, a referral should be made to the Adult Safeguarding First Contact Point. Information is available on the Darlington Safeguarding Partnership's [website](#). Details on managing allegations against adults is available in the Darlington Safeguarding Partnership [Adult Managing Allegations: People Working in a 'Position of Trust' Policy](#).

- 1.10 This document provides additional practice guidance to employers when allegations are made and/or management concerns arise. It does not replace or take priority over any aspect of employment law and should be used in conjunction with Darlington Safeguarding Partnership [multi-agency child protection procedures](#).

## 2. ROLES & RESPONSIBILITIES

### DARLINGTON SAFEGUARDING PARTNERSHIP

- 2.1 In line with Darlington Safeguarding Partnership's (DSP) responsibility for ensuring there are effective multi-agency procedures in place for dealing with allegations, each DSP member organisation should identify a named **Senior Officer** with overall responsibility for:
- ensuring that the organisation operates procedure for dealing with allegations in accordance with DSP Child Protection Procedures
  - resolving any inter-agency issues
  - liaison with Darlington Safeguarding Partnership

### LOCAL AUTHORITY

- 2.2 Councils should appoint Designated Officer (DO) who will:
- be involved in the management and oversight of individual cases
  - provide advice and guidance on managing allegations to employers and voluntary organisations
  - liaise with the Police and other agencies
  - chair Initial Evaluation meetings and liaise with Chairs of Strategy Meetings
  - monitor the progress of cases to ensure they are dealt with as quickly as possible, using a consistent, thorough and fair process
  - maintain records of individual cases, advice given, actions taken, and decision made
  - maintain information databases in relation of all allegations and produce an Annual Report for Darlington Safeguarding Partnership

### POLICE

- 2.3 Durham Police should identify a **Senior Nominated Officer** to:
- have strategic oversight of the local police arrangements for managing allegations against staff and volunteers
  - liaise with Darlington Safeguarding Partnership
  - ensure compliance within the Organisation

- identify a Senior Officer to:
  - Liaise with the Local Authority Designated Officer (DO)
  - Take part in Initial Evaluation meetings
  - Review the progress of cases in which there is a Police investigation
  - Share information as appropriate, on completion of an investigation or related prosecution

## EMPLOYERS

### 2.4 Employers should:

- put in place and operate arrangements for dealing with allegations in accordance with these procedures
- designate a **Lead Officer** to whom allegations or concerns should be reported and a Deputy to whom reports should be made in the absence of the designated Lead Officer or where that person is the subject of the allegation or concern (the Lead Officer for Darlington Borough Council is the Assistant Director of Children's Services)
- ensure that their Organisation operates procedures for dealing with allegations, resolving any inter agency issues and liaising with the DO as required under this procedure
- provide advice, information and guidance for staff within the organisation;
- gather additional information which may have a bearing on the allegation e.g. previous known concerns, care and control incidents.

Schools or other education settings should also refer to '[Keeping Children Safe in Education](#)' guidance (September 2018) which covers issues relating to allegations of abuse made against teachers and other education staff.

## 3. RECOGNISING AND RESPONDING TO AN ALLEGATION

### 3.1 There are a number of sources from which a complaint or an allegation might arise, some examples include:

- directly from a child
- from a parent or other adult
- from Police or local authority children's social care
- from a member of the public
- from concerns generated through an employment relationship (whistle blowing)
- from a disciplinary investigation
- disclosed anonymously or online
- perpetrator disclosing the allegation to the employer



- 3.2 Procedures need to be applied with common sense and judgement. Some allegations are so serious as to require immediate referral to Children's Social Care and the Police for investigation. Others are much less serious and at first sight may not seem to warrant consideration of a Police investigation or enquiries by Children's Social Care. However, in the interests of transparency it is important to ensure that even apparently less serious allegations are followed up and that they are examined objectively by the DO who is independent of the organisation concerned.

It is in everyone's interest to resolve cases as quickly as possible, consistent with a fair and thorough investigation. All allegations must be investigated as a priority to avoid any delay. The time taken to investigate and resolve individual cases depends on a variety of factors including the nature, seriousness and complexity of the allegation.

- 3.3 Where such allegations are made, consideration must be given to the following three strands:
- a police investigation of a possible criminal offence
  - enquiries and assessment by Children's Social Care about whether a child is in need of protection or in need of services and
  - consideration by an employer/regulatory body of action in respect of the individual

## 4. INITIAL CONSIDERATIONS

- 4.1 The person to whom an allegation is first reported, should treat the matter seriously and keep an open mind. They should:
- immediately report the matter to the Lead Officer (or Deputy in their absence)
  - if the Lead Officer is the subject of the allegation report the matter to the Deputy Lead Officer
  - consider if the child concerned has suffered, or is at risk of suffering, significant harm (see relevant section in the [Darlington Safeguarding Partnership Child Protection Procedures](#)) and if this is the case (or if in any doubt), make a referral to [Childrens Initial Advice Team](#) (CIAT), Children's Social Care in accordance with these Procedures and or contact the Police.
    - Childrens Initial Advice Team contact details: telephone 01325 406252
    - e-mail: [childrensfrontdoor@darlington.gov.uk](mailto:childrensfrontdoor@darlington.gov.uk)
    - Police: telephone 101
  - if the concerns arise outside normal office hours, then the referral should be made to the Emergency Duty Team
    - Emergency Duty Team contact details: telephone 01642 524552
  - make a written record of the information (where possible in the child's/adult's own words), including the time, date and place of incident, persons present and what was said
  - sign and date the written record

They should not:

- instigate an investigation or ask leading questions if seeking clarification;
- make assumptions or offer alternative explanations;
- promise confidentiality or give assurance that the information will only be shared on a 'need to know' basis

#### 4.2 Initial Action by the Lead Officer

When informed of a concern or allegation, the Lead Officer should not investigate the matter or interview the member of staff, child or any potential witnesses. They should:

- report the allegation to the DO within one working day
- if a child has suffered, or is at risk of suffering significant harm ensure that a referral to [Childrens Initial Advice Team](#) has been made
- obtain written details of the concern/allegation, signed and dated by the person receiving the allegation
- acknowledge receipt of and date the written details
- record any information about times, dates and location of incident and names of any potential witnesses
- record any discussions about the child and/or member of staff, any decisions made and the reasons for those decisions.

- 4.3 Any organisation that receives information regarding an allegation that appears to meet the criteria (including the Police and Social Care) should report it to the DO **within one working day**. This should take place before any investigations commence. Reporting should not be delayed in order to gather information.

The referral should be made to the Designated Officer by telephone on **01325 406451** and follow up information can be sent if required via secure e mail to **designatedofficer@darlington.gov.uk**

If an allegation is received outside normal working hours and requires immediate attention, the lead officer should consult the Emergency Duty Team or Police and inform the DO as soon as possible.

- 4.4 Where the DO receives a complaint or an allegation from sources other than the employer, the DO should consider what information, if any, should be disclosed to the employer applying the principles of the [Data Protection Act 2018](#) and [General Data Protection Regulation \(GDPR\)](#) and Darlington Safeguarding Partnership [Information Sharing Protocol](#).
- 4.5 In all cases, the information shared and reasons for doing so and subsequent action taken should be recorded by the DO for each referral received. The DO is required to maintain an allegations data base and to file all written information including meeting minutes in the electronic folder.

- 4.6 The DO and Lead Officer will discuss the concerns and where necessary obtain further details of the allegation and the circumstances in which it was made. The discussion should consider the credibility of the information, whether criminal offences may have been committed, whether the matter has been reported to the police or the Childrens Initial Advice Team and whether disciplinary action is appropriate. If there is cause to suspect that a child is suffering or is likely to suffer significant harm, the DO should advise the employer to refer the case to the Childrens Initial Advice Team. If necessary, the DO will make the referral to the Childrens Initial Advice Team.
- 4.7 The Police must be consulted about any case in which a criminal offence may have been committed. In circumstances where the criteria for a child protection referral and strategy meeting are not met, but a Police investigation might be needed, the DO should immediately inform the Police and convene an initial evaluation meeting (see paragraph 6.4).
- 4.8 Where there are concerns regarding the conduct or behaviour of an individual which raises concerns about their suitability to work with children, but the threshold criteria for a child protection referral are not met, an initial evaluation meeting should be convened. (See paragraph 6.4) In some circumstances for example when the action needed to be taken is evident, a telephone discussion between the relevant parties may be appropriate instead of convening a meeting.
- 4.9 Where the safety of other children is in question as a result of the allegation, consideration should be given to implementing Darlington Safeguarding Partnership [organised or multiple abuse procedure](#).
- 4.10 **Direct referrals to the Police and/or Children’s Social Care**

Where a referral is made directly to the Childrens Initial Advice Team, they will consult with the DO and the Police and the Lead Officer in the relevant agency or organisation. If a referral is made to the Police first, the officer who receives it should report it to the relevant Safeguarding Team without delay and he/she should in turn inform the DO.

## 5. INFORMATION SHARING AND DATA PROTECTION

- 5.1 Effective information sharing is vital to safeguarding and promoting the welfare of children and young people. [The Data Protection Act 2018](#) and [General Data Protection Regulation \(GDPR\)](#), the [Human Rights Act 1998](#) and the [Freedom of Information Act 2000](#) are the main legislative frameworks governing how, what and in what circumstances information may be shared. See also the [Darlington Protocol for collaborative working and information sharing between professionals to protect children and vulnerable adults](#).

## **Informing the parent/carer and/or child**

- 5.2 If the parents/carers of the child are not already aware of the allegation the DO in consultation with colleagues in the Police and Social Care, will advise the Employer about when and how to do this. In some circumstances, the parent will need to be told straight away; for example, if the child has been injured or requires medical treatment. The parents and the child should be helped to understand the processes involved. The 'voice of the child' must be considered in the management of allegations process and the DO should ascertain that this has been actioned.

## **Informing the referred person**

- 5.3 The Employer should seek advice from the DO and the Police about how much information should be disclosed to the referred person. Subject to the restrictions on the information that can be shared, the Employer should as soon as possible inform the referred person about the nature of the allegation, how enquiries will be conducted and the possible outcome. The referred member of staff should:
- be treated fairly and honestly and helped to understand the concerns expressed and processes involved
  - be provided with support throughout the investigative process and advise them to seek support from their trade union representative if they have one
  - be kept informed of the progress and outcome of any investigation and the implications for any disciplinary process and be given a named point of contact in the organisation
  - be given access to welfare counselling or medical support where provided
  - if suspended, make arrangements for the individual be kept up to date about events in the workplace

Information for those facing an allegation is available. See [guidance for staff and volunteers facing an allegation](#).

## **Informing Ofsted**

- 5.4 The employer has a duty to inform Ofsted of any allegation or concern made against a member of staff in any day care establishment, which provides a service for children under the age of eight. Local Authority Children's Social Care has a duty to inform Ofsted of all allegations made against a foster carer, prospective adopter or member of staff in a residential child care facility. The DO will inform Ofsted if the allegation is against a registered childminder. Ofsted should be invited to attend any safeguarding strategy meeting or initial evaluation meeting and kept informed of the progress of the case and the outcome.

## 6. INITIAL ACTION

### Child Protection Strategy Meeting and DO Initial Evaluation Meeting

- 6.1 If there is reason to suspect a child is suffering or is likely to suffer significant harm, a Child Protection Strategy Meeting will be held in accordance with S47 of the Children Act 1989. The DO initial evaluation meeting can be held as an integral part of this process with the two meetings being held consecutively. Holding the meetings consecutively and sharing the information during the strategy meeting stage is an effective use of resources and means that information sharing does not have to be duplicated.
- 6.2 The strategy meeting will focus on the welfare and safety of the child and will be chaired by a Children's services Team Manager. The DO should be invited to attend this meeting and where appropriate the employer should also attend. If the Chair of the strategy meeting deems that it is not appropriate for the employer to attend the strategy meeting the DO will agree with the Chair what information can be subsequently shared with the employer and the initial evaluation meeting which will include the employer will be held after the strategy meeting has taken place. The strategy meeting will:
- consider whether there should be a Section 47 enquiry
  - consider the current allegation in the context of any previous allegations or concerns
  - where appropriate, take account of any entitlement by staff to use reasonable force to take control or restrain children
  - consider whether an organised or multiple abuse investigation is applicable (see [organised and complex abuse procedure](#))
  - ensure that arrangements are made to protect the children involved and any other children affected, including taking emergency action where needed
  - consider what support should be provided to children who may be affected
  - consider the implications for parents/carers particularly if allegations involve a number of potential child victims
  - agree dates for future review meetings
- 6.3. Following the strategy meeting the DO should convene and chair an Initial Evaluation meeting with the employer, to consider the action required in respect of the employee subject to the allegation. The meeting should consider whether it is necessary to suspend the employee and how to take matters forward in respect of employment issues and disciplinary processes when a criminal investigation is being undertaken. Disciplinary action will be deferred until completion of the police enquiries and/or prosecution. The DO should minute the decisions made in the initial evaluation meeting and future actions which are to be taken in terms of the employment of the individual. (See para 6.5 for actions that should be considered). In some circumstances (for example when the employer has been present throughout the

strategy meeting) it may be appropriate to agree and record the initial evaluation meeting tasks within the strategy meeting.

6.4 If a Strategy Meeting is not required as the child is not at risk of significant harm, the DO will convene and chair an initial evaluation meeting. The DO should convene the meeting with the Police, the employer's Lead Officer and any other agencies involved with the child. Where a decision is made that neither Children's Social care nor the Police are required to continue any involvement, the DO should discuss next steps with the employer's lead officer in sufficient time so that appropriate action can be taken. In those circumstances options open to the employer range from taking no further action to suspension, dismissal or a decision not to use the person's services in future.

6.5 The initial evaluation meeting should:

- consider the allegation and whether any investigation under disciplinary procedures is required
- discuss any previous allegations or concerns
- decide whether there should be a police investigation
- plan enquiries if needed, allocate tasks and set timescales
- decide what information can be shared, with whom and when
- consider what support should be made available to the member of staff, the child and his/her family and any others who may be affected
- ensure that investigations are sufficiently independent
- make recommendations where appropriate regarding suspension or alternatives to suspension
- identify a lead contact within each agency (this may be the lead officer or deputy)
- agree procedures for reviewing investigations and monitoring progress by the DO having regard to target timescales
- consider any issues for the attention of senior management (e.g. media strategy or resource implications)
- consider whether a referral to the DBS or other regulatory body should be made and by whom
- consider risk assessments to inform the employer's safeguarding arrangements
- consider the individual's own children/those within their family/any other children they have contact with, and whether a referral needs to be made to Children's Social Care regarding any child within this group
- agree dates for future Allegation Management Meetings

## **Suspension**

6.6 The possible risk of harm to children posed by the referred person needs to be evaluated and managed effectively in respect of the children involved in the allegations, and any other children who may be at risk in the referred member of staff's home, work or community life. In some cases, the employer may consider suspending the member of staff. Suspension is a neutral act and is not automatic.

Employers must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children until the allegation is resolved. If suspension is deemed appropriate, the reasons and justification should be recorded, and the individual notified of the reasons.

6.7 Suspension should be considered where:

- there is cause to suspect a child/children is at risk of significant harm
- the allegation warrants investigation by the Police
- the allegation is so serious that it might be grounds for dismissal
- there is cause to suspect that the individual has the potential to intimidate a person(s) whom they know or believe to be involved
- there is cause to suspect that the individual may have the potential to destroy or contaminate evidence related to the investigation
- other circumstances particular to the case that warrant suspension

6.8 Neither the DO nor the Police nor Children's Social Care can require an employer to suspend a member of staff or volunteer. The power to suspend is vested in the employer alone, in consultation with its HR department. However, where a Strategy Meeting or initial evaluation meeting concludes that there should be enquiries by Children's Social Care and/or investigation by the Police, the DO should canvass the Police and Children's Social Care as to their views about whether the accused member of staff needs to be suspended from contact with children, to inform the employer's consideration of suspension. Consideration at this stage should also be given to the need to refer the matter to the [Disclosure and Barring Service](#).

6.9 The Lead Officer in liaison with HR department within the organisation should also consider whether the result that would be achieved by immediate suspension could be obtained by alternative arrangements. Based on an assessment of risk, the following alternatives should be considered by the Lead Officer before suspending an individual:

- Temporary redeployment within the same establishment but ensuring that the individual does not have direct contact with the child or children concerned
- Temporary redeployment to alternative work which does not involve unsupervised access to children, within the same establishment or at a different location
- Providing an assistant to be present when the individual has contact with children, or
- Moving the child or children where they will not come into contact with the member of staff, making it clear that this is not a punishment and parents have been consulted

## Review Meeting

- 6.10 If necessary, a review initial evaluation meeting should be held to ensure that all tasks have been completed and where appropriate, agree an action plan for future practice based on lessons learned.

## Allegations Against Staff in Their Personal Lives

- 6.11 If an allegation or concern arises about a member of staff outside of their work with children and this may present a risk of harm to children for whom the member of staff is responsible, the general principles outlined in these procedures will still apply. Decisions regarding the sharing of information should be based on the principles of the [Darlington Protocol for collaborative working and information sharing between professionals to protect children and vulnerable adults](#). The disclosure of information should be proportionate to the circumstances and shared as follows:

- where necessary and relevant (not simply all of the information held)
- with relevant people who need all or some of the information
- where there is a specific need for that information to be shared at that time

Consideration should be given to deciding whether the concern justifies:

- approaching the member of staff's employer for further information, in order to assess the level of harm
- inviting the employer to an initial evaluation meeting

If the allegations arising from the employee's private life result in a S47 Child Protection Investigation or a criminal investigation and there are concerns about their suitability to work in a position of trust, then it is more likely that it is necessary for the DO to inform the employer and convene an Allegation Management meeting.

The Designated Officer should assess the transferable risk from the actions of the employee in their personal life which resulted in the allegation to the role of the employee in the workplace, for example where a person who works with children is involved in a domestic abuse incident or an offence involving violence or sexual assault may be unsuitable to work with children.

***If the member of staff lives in a different authority area to that which covers their workplace, liaison should take place between the relevant agencies in both areas.***

- 6.12 In some cases, an allegation may be made against an individual closely associated with an employee (for example an adult child or partner) who may present a risk of harm to children with whom the member of staff has contact in the course of their work. In these circumstances the initial evaluation meeting should consider:

- the ability and/or willingness of the employee to adequately protect the children



- whether measures need to be put in place to ensure their protection;
- whether the role of the staff member is compromised.

6.13 In cases involving allegations relating to an employee's private life or individuals closely associated with the employee consideration must be given to the need to suspend the employee in accordance with paras 6.6 – 6.9.

### **Organised or multiple abuse**

6.14 Investigators should be alert to signs of organised or multiple abuse and the involvement of other perpetrators or institutions. They should consider whether the matter should be dealt with in accordance with [organised or multiple abuse procedures](#) which, if applicable, will take priority. Historical allegations should be responded to in the same way as contemporary concerns. It will be important to ascertain if the person is currently working with children and, if so, to consider whether the current employer should be informed.

### **Whistle-Blowing/Confidential Reporting Policy**

6.15 All staff should be made aware of the Organisation's whistle-blowing / confidential reporting policy and feel confident to voice concerns about the actions or attitude of colleagues. If a member of staff believes that a reported allegation or concern is not being dealt with appropriately by their Organisation, they should report the matter to the DO.

### **Conflict of Interest/Impartiality**

6.16 Any person involved in the consideration and/or investigation of an allegation must declare any possible conflict of interest for example, if the allegation relates to someone known to them such as a relative, friend, colleague, or someone from an organisation to which they are affiliated.

6.17 Investigations and considerations of an allegation must be considered objectively and impartially. Depending on the circumstances this may require:

- use of staff who are sufficiently separate from the line management of the person subject to the allegation
- an arrangement with the Police, Children's Social Care team and DO from a different part of the County or an arrangement with another police or local authority
- use of an Independent investigator

### **Cross Boundary Considerations**

6.18 Allegations or concerns may be raised about individuals who work within more than one local authority. When this occurs the DO receiving the information should contact

the DO in the area(s) where the individual is also known to work or have contact with children.

- 6.19 If concerns arise in an individual's private life that have a bearing on their work with children in another authority, the DO should contact the DO for that area and offer to attend an initial evaluation meeting to share information and agree any action necessary.
- 6.20 Responsibility will ordinarily rest with:
- the local authority where the subject has substantive employment
  - if self-employed the local authority where he/she resides
  - for volunteers – the local authority for the area where he/she has a substantive roles or area in which he/she resides
  - agency/supply staff – the local authority where the allegation has arisen
  - multiple subjects/victims – the local authority in which the concerns have arisen
- 6.21 The [Adult Managing Allegations: People Working in a 'Position of Trust' Policy](#) should be used when there is a need to share information between authorities that is relevant to an individual who may also work with vulnerable adults.

### **Agency Staff**

- 6.22 In the case of agency, supply and contract staff, normal disciplinary procedures may not apply. In these circumstances the DO, employer and contract manager (where appropriate) should work jointly with the providing agency in deciding whether to continue to use the person's services, or provide future work with children, and if not whether to make a report for consideration of barring or other action.

If it is identified that the individual is employed by more than one independent supply agency, the local authority in which he/she is currently employed will take the lead in terms of co-ordination.

If the individual works for several supply agencies and the concern relates to an individual's suitability, for example, their behaviour outside of the employment, co-ordination being undertaken by the local authority in which he/she normally resides.

### **Self-employed/ Organisations without Managers**

- 6.23 Occasionally allegations or concerns will arise that relate to individuals who are not contractually linked to a line management structure and/or conventional HR arrangements, for example, providers of tuition in the home. It is important that responses to these situations are as robust as they would be for other sectors of the children's workforce. The DO should arrange for information from professionals to be shared in the normal way in order to assess risk. A strategy or initial evaluation meeting would generally be required in such circumstances and if there is to be a criminal or Section 47 investigation, this should continue and the police or social care should be asked to explain the Allegations Management process to the individual about whom

the allegation has been made so that they are aware that their employment might be affected (i.e. if there are bail conditions).

## 7. PROGRESS AND OUTCOMES

### Monitoring Progress

- 7.1 The DO should monitor and record the progress of each case on a regular basis, at least every 28 days depending on the complexity of the case. This could be by way of a review meeting or by direct communication with the Police, Children's Social Care or the Employer. Where target timescales cannot be met, the DO should record the reasons.

All agencies should continue to review the case and inform the DO of any significant developments.

- 7.2 If a police investigation is to be conducted, the police should aim to complete their enquiries as quickly as possible and keep progress of the case under review. They should at the outset set a target date for reviewing progress of the investigation and consulting with the Crown Prosecution Service (CPS) about whether to proceed with the investigation, charge the individual with an offence, or close the case, that review should take place no later than four weeks after the strategy or initial evaluation meeting<sup>1</sup>. It is an expectation that where applicable the police officer provides the DO with regular updates in respect of the investigation.

### No Further Action

- 7.3 Where it is agreed that no further action is to be taken regarding the allegation, the decision and justification should be recorded by both the Lead Officer and the DO. The Lead Officer should:
- agree what information should be put in writing to the individual concerned
  - identify any action in respect of those who made the initial allegation and
  - consider what information should be shared with the child and their parents/carers and by whom.

### Confidentiality

- 7.4 During the investigation the police should obtain consent from the individuals concerned to share the statements and evidence they obtain with the employer and/or Regulatory Authority, for disciplinary purposes, applying the principles of the [Data Protection Act 2018](#) and [General Data Protection Regulation \(GDPR\)](#). This will enable

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<sup>1</sup> Paragraph 178 (page 47), Keeping Children Safe in Education 2016

the Police and the Crown Prosecution Service (CPS) to share relevant information without delay at the conclusion of the investigation or any court case.

Children's Social Care should also obtain consent when making enquiries so that any information that is relevant to a disciplinary case can be passed on to the employer or Regulatory Authority.

- 7.5 Every effort should be made to maintain confidentiality and guard against unwanted publicity whilst 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 disciplinary processes. In accordance with the National Police Chiefs Council (NPCC) Guidance the Police will not provide identifying information to the press or media until a person is convicted, other than in exceptional circumstances. In such cases the reasons should be documented, and partner agencies consulted beforehand.

The child and parents or carers can be informed about the outcome of any disciplinary process but they do not have access to the deliberations of a disciplinary hearing nor the information taken into account in reaching the decisions in the hearing, applying the principles of the [Data Protection Act 2018](#).

### **Restrictions on Identifying Teachers Against Whom Allegations of Criminal Misconduct Have Been Made**

- 7.6 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 identification would identify the teacher as the subject of the allegation). 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 will 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 removes restrictions in response to a request to do so. Breaching the reporting restrictions is a criminal offence.

The Lead Officer should take advice from the DO, police and children's social care to agree the following:

- who needs to know and 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 should arise

Please note this provision applies only to teachers, not to other staff in educational establishments, however it is good practice which should be considered by all employers.

## Support

- 7.7 The employing organisation, together with Children's Social Care and/or the Police where involved, should consider the impact upon the child and provide appropriate support. Liaison between agencies should consider how the child's needs are addressed.
- 7.8 As soon as practicable after an allegation has been received, the referred member of staff should be advised to contact their union or professional association. The employing organisation should alert their HR advisors in order that support can be offered via the organisation's occupational health or wellbeing arrangements in accordance with the employer's procedures. The leaflet ['Guidance for Staff Facing an Allegation'](#) should also be provided when appropriate.

## Disciplinary Process and Investigation

- 7.9 Where an investigation by the police or Children's Social Care is unnecessary or has been completed, the Lead Officer will need to determine if any further disciplinary/internal investigation is required. The DO should discuss disciplinary measures with the Lead Officer and/or the employer's HR representative. The discussion should consider any potential misconduct or gross misconduct on the part of the member of staff and take into account:
- information provided by the Police and/or Children's Social Care
  - the result of any investigation;
  - the different standard of proof in disciplinary and criminal proceedings.

The decision to instigate disciplinary proceedings lies with the Employer, who will adhere to their own organisational HR policy and procedures.

- 7.10 In the case of supply, contract or volunteer workers, normal disciplinary procedures may not apply. In these circumstances, the DO and employer should act jointly with the providing agency in deciding whether to continue to use the individual's services, provide future work with children, or whether to make a report to the Disclosure and Barring Service (DBS) for consideration of barring the individual or other action.
- 7.11 If formal disciplinary action is not required the employer should institute any agreed actions arising from the Initial Evaluation Meeting **within three working days**. If a disciplinary hearing is required and can be held without further investigation, the

hearing should be held **within 15 working days**<sup>2</sup> or in line with own organisational disciplinary procedures as soon as practicably possible.

- 7.12 If further investigation is needed to decide upon disciplinary action, the Employer and the DO should discuss whether the Employer has appropriate resources or whether the Employer should commission an independent investigation because of the nature or complexity of the case or to ensure objectivity. The investigation should not be conducted by a relative or friend of the member of staff.
- 7.13 The aim of an investigation is to obtain 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. Its purpose is not to prove or disprove the allegation. The investigating officer should aim to provide a report **within 10 working days or as soon as practicably possible**.
- 7.14 On receipt of the report the employer should decide, within 2 working days, whether a disciplinary hearing is needed. If a hearing is required, it should be held in line with your own organisation disciplinary procedures and as soon as practicably possible.
- 7.15 If at any stage of the investigation new information emerges that requires a child protection referral, the investigation should be suspended and only resumed if agreed with Children's Social Care and the Police. Consideration should again be given as to whether suspension is appropriate in light of the new information.
- 7.16 Points 7.11 to 7.14 are those recommended in [Working Together to Safeguard Children](#) (2015 - archived) and DfE [Keeping Children Safe in Education guidance](#) (2019). It is recognised that these timescales may not be achievable by all organisations but employers should do their utmost to ensure a timely resolution to any investigation/disciplinary proceedings and the progress of the investigation will be monitored by the DO.

### **Resignations and 'Settlement Agreements'**

- 7.17 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. It is important that every effort is made to reach a conclusion in all cases of allegations concerning the safety and welfare of children, including any in which the person concerned refuses to cooperate with the process. Wherever possible, the individual should be given a full opportunity to answer the allegation and make representations.
- 7.18 The process of recording the allegation and any supporting evidence and reaching a judgement about whether it can be regarded as substantiated on the basis of all the information available should continue even if the individual does not cooperate. It may be difficult to reach a conclusion in these circumstances, and it may not be possible to

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<sup>2</sup> Paragraph 175 (page 46). Keeping Children Safe in Education 2016.

apply any disciplinary sanctions if a person's period of notice expires before the process is complete, but it is important to reach and record a conclusion wherever possible.

- 7.19 A so called 'Settlement Agreement' (sometimes referred to as compromise agreements) by which a person agrees to resign, the employer agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, should not be used in cases of refusal to cooperate or resignation before the person's notice period expires<sup>3</sup>. In any other circumstances, such an agreement is at the employers' discretion in compliance with employment legislation. In any case, such an agreement will not prevent a thorough police investigation and referral to the Disclosure and Barring Service (DBS) where appropriate.
- 7.20 The DO should also advise whether it is appropriate to notify a professional body or regulator for example, the Health and Care Professions Council (HCPC), TRA (Teaching Regulation Authority) or the General Medical Council (GMC). Any referral, if appropriate, should be made within **one month**.

## **REFERRALS TO THE DISCLOSURE AND BARRING SERVICE (DBS) AND/OR REGULATORY BODIES**

### **7.21 Duty to Refer**

If the allegation is substantiated and on conclusion of the case the individual is permanently removed (whether paid or unpaid) through dismissal or permanent transfer (or would have done had the person not left, resigned, retired or been made redundant) from regulated activity, the organisation has a **statutory responsibility** to make a referral to the [Disclosure and Barring Service \(DBS\)](#) if the employer thinks that the individual has harmed a child or poses a risk of harm to children. The DBS referral form can be downloaded from the website. **It is an offence to fail to make a referral to the DBS without good reason.**

Employers should also refer to the guidance published by their relevant regulatory body to determine if and when any allegation of professional misconduct should be reported to them.

### **Record Keeping**

#### **7.22 Employers should:**

- Keep a clear and comprehensive record of any allegations made including:
  - events leading to the allegation or concern;
  - circumstances and context of the allegation;
  - details of any actions taken;

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<sup>3</sup> Paragraph 169 (page 45) Keeping Children Safe in Education

- details of any decisions reached;
  - final outcome
- These should be kept on the employee's confidential personnel file and a copy given to the individual.

7.23 Such information should be retained on file, including for people who leave the organisation, for at least until the person reaches normal retirement age or for ten years if longer. The purpose of the record is to enable accurate information to be given in response to any future request for a reference. It will provide clarification in cases where a future DBS disclosure reveals information from the police that an allegation was made but did not result in a prosecution or conviction. It will also prevent unnecessary re-investigation if, as sometimes happens, allegations resurface after a period of time

Details of allegations that are found to be malicious should be removed from personnel records.

Each agency must take great care to ensure that the records they keep respect the confidentiality of the victim and/or alleged perpetrator i.e. the child's file should contain limited information about the perpetrator and the perpetrator's file should contain limited information about the child victim.

7.24 A central record of allegations will be maintained by the DO on behalf of partner organisations of each Safeguarding Partnership. The DO's records will assist the Safeguarding Partnership to monitor and evaluate the effectiveness of managing allegations and provide statistical information to central government, and for Freedom of Information requests, if required

## References

7.25 References should include accurate information taken from the personnel file and individual organisations need to have appropriate consideration and procedures to cover providing information in references in relation to allegations including where sanctions are 'spent'.

In addition, for teachers, where the allegation was proven to be unsubstantiated, unfounded or malicious, information should not be included in employer references. A history of repeated concerns or allegations which have all been found to be unsubstantiated, unfounded or malicious should also not be included in any reference.

## 8. ACTIONS ON CONCLUSION OF A CASE

8.1 At the end of an investigation, the DO will consider whether it is necessary to convene a review meeting, for example in complex cases.



The meeting will primarily ensure that:

- all the original allegations have been addressed
- the investigation has been clearly recorded
- all strands of the investigation have been concluded
- all involved have been informed of the outcomes appropriately
- children have been safeguarded and services have been provided
- recommendations and decisions of the post Investigation meeting are reviewed within an agreed timescale to ensure that they are followed through.

If it is decided on the conclusion of the enquiries that a suspended person is to return to work, the employer should consider what help or support might be appropriate and how best to manage the member of staff's contact with the child who made the allegation can best be managed if they are still to have contact.

The Police should inform the employer's Lead Officer and DO immediately when a criminal investigation and any subsequent trial is concluded or if it is decided to close an investigation without charge, or not to prosecute after the person has been charged.

In all circumstances the DO should discuss with the employer's Lead Officer what further action is appropriate and agree how to proceed. The information provided by the Police and/or Children's Social Care should inform that decision.

Where an internal/disciplinary process is concluded, the DO should be informed of the outcome and should reach agreement with relevant professionals as to the category of the allegation.

## 8.2 Allegation Categories:

- **Substantiated** there is sufficient identifiable evidence to prove the allegation
- **False** there is sufficient evidence to disprove the allegation
- **Malicious** there is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false
- **Unfounded** there is no evidence or basis to support the allegation. It may indicate that the person making the allegation misinterpreted the situation or was mistaken about what they saw. Alternatively, they may not have been aware of the full circumstances.
- **Unsubstantiated** this is not the same as a false allegation. It means that there is insufficient evidence to prove or disprove the allegation. The term does not imply guilt or innocence.

Action on conclusion of a case should include consideration of whether a referral to the Disclosure and Barring Service is required or advisable and the form and content of a referral. If a referral is appropriate it should be made within one month.

If the person is subject to registration or regulation by a professional body or regulator, for example by the Health and Care Professions Council, General Medical Council, Ofsted. The DO should advise on whether a referral to that body is appropriate.

### **Unfounded or Malicious Allegations**

- 8.3 Following the initial evaluation meeting if an allegation is determined to be unsubstantiated, false or unfounded, the DO should record sufficient details of the findings, and forward it to the Lead Officer/Deputy of the employer to enable them to consider what further action, if any, should be taken.
- 8.4 False allegations may be an indicator of abuse elsewhere that requires further exploration. If an allegation is demonstrably false the employer, in consultation with the DO, should consider referring the child to Children's Social Care to determine whether the child may have suffered abuse by another or is in need of services.
- 8.5 If it is established that an allegation has been fabricated the Police should be asked to consider whether it might be appropriate to take action against the person responsible.
- 8.6 At the conclusion of a case in which the allegation is unsubstantiated, the employer should review the circumstances of the case to determine whether there are any improvements to be made to the employer's procedures or practice to help prevent similar events occurring in the future.

### **Learning Lessons**

- 8.7 At the conclusion of a case where the allegation has been substantiated, the Lead Officer in consultation with the Senior Nominated Officer and DO should review the circumstances of each 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.

Any lessons from investigations and enquires should be reported by the DO to Darlington Safeguarding Partnership.

### **Complaint**

- 8.8 If you are not satisfied with any part of the process relating to an allegation that has been handled by the Designated Officer, then a complaint can be made to Darlington Borough Council. You can:
- Use our online [complaints, compliments and comments online form](#)
  - email [complaints@darlington.gov.uk](mailto:complaints@darlington.gov.uk)
  - Telephone us on 01325 406777
  - Visit us at the Town Hall

Details of our complaints procedures are available on the [Darlington Borough Council website](#).

## 9. FURTHER INFORMATION AND GUIDANCE AND REGULATORY BODIES

[Darlington Safeguarding Partnership Child Protection Procedures](#)

[Darlington Safeguarding Partnership Safer Recruitment and Managing Allegations](#)

Department for Education - [Keeping Children Safe in Education 2019](#)

[Disclosure and Barring Service](#) (DBS) - The Disclosure and Barring Service helps employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children.

### Regulatory Bodies

The Childcare (General Childcare Register) Regulation 2008, the Statutory Framework for the Early Years Foundation Stage

Disclosure and Barring Service (DBS)

Early Years Foundation Stage (Welfare Requirements) Regulations 2012

The Children's Homes (Amended) Regulations 2011

The Residential Family Centres Regulation 2002

The Residential Family Centres (Amendment) Regulation 2002

Fostering Services (England) Regulations 2011

Adoption Support Agencies (England) & Adoption Agencies Regulations 2005 & Adoption Regulations 2003

Ofsted

TRA Teachers Regulation Authority

Nursing and Midwifery Council (NMC)

General Medical Council (GMC)

Social Work England

## Managing Allegations or concerns against staff and volunteers

