



Brookhurst Primary School

Allegations Against Staff or Persons in Positions of Trust

21 September 2020

Author : Ms A Stanton

Approved :

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| Stella Newman | 06-03-2020 | 06-03-2020 |
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| Sofia Gryparis | Not Yet | Not Yet |
| Teresa Henderson | Not Yet | Not Yet |
| Christine Wales | Not Yet | Not Yet |

| | | |
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Brookhurst Primary School

**Allegations Against Staff or Persons in Positions of
Trust**

Autumn 2020

**Author : Ms A Stanton
Approved : Chair of Resources Committee
To be reviewed annually**

Introduction and Criteria

All allegations of abuse of children by those who work with children must be taken seriously. Allegations against any person, who works with children, whether in a paid or unpaid capacity, cover a wide range of circumstances.

This procedure should be applied when there is such an allegation or concern that a person who works 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;
- Behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children.

These behaviours should be considered within the context of the four categories of abuse (i.e. physical, sexual and emotional abuse and neglect). These include concerns relating to inappropriate relationships between members of staff and children or young people, for example:

- Having a sexual relationship with a child under 18 if in a position of trust in respect of that child, even if consensual (see ss16-19 [Sexual Offences Act 2003](#));
- 'Grooming', i.e. meeting a child under 16 with intent to commit a relevant offence (see s15 [Sexual Offences Act 2003](#));
- 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 photographs / pseudo-photographs of children.

If concerns arise about the person's behaviour to her/his own children, the Police and/or Children's Social Care must consider informing the employer / organisation in order to assess whether there may be implications for children with whom the person has contact at work / in the organisation, in which case this procedure will apply.

Allegations of historical abuse should be responded to in the same way as contemporary concerns. In such cases, it is important to find out whether the person against whom the allegation is made is still working with children and if so, to inform the person's current employer or voluntary organisation or refer their family for assessment.

All references in this document to 'staff or members of staff' should be interpreted as meaning all paid or unpaid staff / professionals and volunteers, including for example foster carers, approved adopters and child minders. This chapter also applies to any person, who manages or facilitates access to an establishment where children are present.

2. Roles and Responsibilities

Working Together to Safeguard Children states:

County level and unitary local authorities should ensure that allegations against people who work with children are not dealt with in isolation. Any action necessary to address corresponding welfare concerns in relation to the child or children involved should be taken without delay and in a co-ordinated manner. Local authorities should, in addition, have designated a particular officer, or team of officers (either as part of local multi-agency arrangements or otherwise), to be involved in the management and oversight of allegations against people who work with children. Any such officer, or team of officers, should be sufficiently qualified and experienced to be able to fulfil this role effectively, for example, qualified social workers. Any new appointments to such a role, other than current or former designated officers moving between local authorities, should be qualified social workers. Arrangements should be put in place to ensure that any allegations about those who work with children are passed to the designated officer, or team of officers, without delay.

Local authorities should put in place arrangements to provide advice and guidance to employers and voluntary organisations and agencies on how to deal with allegations against people who work with children. Local authorities should also ensure that there are appropriate arrangements in place to liaise effectively with the police and other organisations and agencies to monitor the progress of cases and ensure that they are dealt with as quickly as possible, consistent with a thorough and fair process.

The local authority have assigned a Local Authority Designated Officer or team of Designated Officers (LADO) to:

- Receive reports about allegations and to be involved in the management and oversight of individual cases;
- Provide advice and guidance to employers and voluntary organisations;
- Liaise with the Police and other agencies;
- Monitor the progress of cases to ensure that they are dealt with as quickly as possible consistent with a thorough and fair process;
- Provide advice and guidance to employers in relation to making referrals to the Disclosure and Barring Service (DBS) and regulatory bodies such as Ofsted, the GMC etc.

Employers should appoint:

- A designated senior manager to whom allegations or concerns should be reported;
- A deputy to whom reports should be made in the absence of the designated senior manager or where that person is the subject of the allegation or concern.
- Review the progress of cases in which there is a Police investigation;
- Share information as appropriate, on completion of an investigation or related prosecution

3. General Considerations Relating to Allegations Against Staff

Persons to be notified

The employer must inform the local authority designated officer (LADO) within **one working day** when an allegation is made and prior to any further investigation taking place.

The LADO will advise the employer whether or not informing the parents of the child/ren involved will impede the disciplinary or investigative processes. Acting on this advice, if it is agreed that the information can be fully or partially shared, the

employer should inform the parent/s. In some circumstances, however, the parent/s may need to be informed straight away (e.g. if a child is injured and requires medical treatment).

The parent/s and the child, in line with their age and understanding, should be helped to understand the processes involved and be kept informed about the progress of the case and of the outcome where there is no criminal prosecution. This will include the outcome of any disciplinary process, but not the deliberations of, or the information used in, a hearing.

The employer should seek advice from the LADO, the Police and / or Children's Social Care about how much information should be disclosed to the accused person.

Subject to restrictions on the information that can be shared, the employer should, as soon as possible, inform the accused person about the nature of the allegation, how enquiries will be conducted and the possible outcome (e.g. disciplinary action, and dismissal or referral to the DBS or regulatory body).

The accused member of staff should:

- Be treated fairly and honestly and helped to understand the concerns expressed and processes involved;
- Be offered appropriate sources of support;
- Be kept informed of the progress and outcome of any investigation and the implications for any disciplinary or related process;
- If suspended, be kept up to date about events in the workplace.

Ofsted should be informed of any allegation or concern made against a member of staff in any day care establishment for children under 8 years of age or against a registered child minder. They should also be invited to take part in any subsequent Strategy Meeting.

Children's Social Care should inform Ofsted of all allegations made against a foster carer, prospective adopter, or member of staff in a residential child care facility.

Confidentiality

Every effort should be made to maintain confidentiality and guard against publicity while an allegation is being investigated or considered. Apart from keeping the child, parents and accused person (where this would not place the child at further risk) up to date with progress of the case, information should be restricted to those who have a need to know in order to protect children, facilitate enquiries, manage related disciplinary or suitability processes.

The Police should not provide identifying information to the press or media, unless and until a person is charged, except in exceptional circumstances (e.g. an appeal to trace a suspect). In such cases, the reasons should be documented and partner agencies consulted beforehand.

Section 13 of the Education Act 2011 introduced restrictions implemented in September 2012 on the publication of any information that would identify a teacher who is the subject of an allegation of misconduct that would constitute a criminal offence, where the alleged victim of the offence is a registered pupil at the school.

Such restrictions remain in place unless or until the person is charged with a criminal offence, though they may be dispensed with on the application to the Magistrates' Court by any person, if the court is satisfied that it is in the interests of justice to do so, having regard to the welfare of:

- a. The person who is the subject of the allegation; and
- b. The victim of the offence to which the allegation relates.

There is a right of appeal to the Crown Court.

This restriction will apply to allegations made against any teacher who works at a school, including supply and peripatetic teachers. 'School' includes academies, Free Schools, independent schools and all types of maintained schools.

There is a new offence of publishing any information in breach of these restrictions. Publication includes any communication, in whatever form, which is addressed to the public at large or any section of the public.

It is a defence to show that the person publishing was not aware of the allegation having been made as set out in section 141H 'Defences' of the Act.

Support

The organisation, together with Children's Social Care and / or Police, where they are involved, should consider the impact on the child concerned and provide support as appropriate. Liaison between the agencies should take place in order to ensure that the child's needs are addressed.

As soon as possible after an allegation has been received, the accused member of staff should be advised to contact their union or professional association. Human resources should be consulted at the earliest opportunity in order that appropriate support can be provided via the organisation's occupational health or employee welfare arrangements.

Suspension

Suspension is a neutral act and it should not be automatic, and should be made in consultation with HR advice. 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.

The possible risk of harm to children should be evaluated and managed in respect of the child/ren involved and any other children in the accused member of staff's home, work or community life.

Consideration should also be given to whether there are any risks to adults with care and support needs. For further guidance on this matter contact the Safeguarding Adults Lead within your organisation.

If a Strategy Meeting is to be held or if Children's Social Care or the Police are to make enquiries, the LADO should canvass 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 a local authority or Police.

If a suspended person is to return to work, the employer should consider what help and support might be appropriate (e.g. a phased return to work and/or provision of a mentor), and also how best to manage the member of staff's contact with the child concerned, if still in the workplace.

Resignations and 'compromise agreements'

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

- The individual refuses to cooperate, having been given a full opportunity to answer the allegation and make representations;
- It may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete.

Compromise agreements' must **not** be used (i.e. where a member of staff agrees to resign provided that disciplinary action is not taken and that a future reference is agreed). A settlement/compromise agreement which prevents the employer from making a DBS referral when the criteria are met for so doing would likely result in a criminal offence being committed for failure to comply with the duty to refer.

Organised abuse

Investigators should be alert to signs of organised or widespread abuse and/or the involvement of other perpetrators or institutions. They should consider whether the matter should be dealt with in accordance with complex abuse procedures which, if applicable, will take priority. See [Organised and Complex Abuse Procedure](#).

Whistle-blowing

All staff should be made aware of the organisation's whistle-blowing policy and feel confident to voice concerns about the attitude or actions 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 LADO.

4. Initial Response to an Allegation or Concern

An allegation against a member of staff may arise from a number of sources (e.g. a report from a child, a concern raised by another adult in the organisation, or a complaint by a parent). It may also arise in the context of the member of staff and their life outside work or at home.

Initial action by person receiving or identifying an allegation or concern

The person to whom an allegation or concern is first reported should treat the matter seriously and keep an open mind.

They should not:

- Investigate or ask leading questions if seeking clarification;
- Make assumptions or offer alternative explanations;
- Promise confidentiality, but give assurance that the information will only be shared on a 'need to know' basis.

They should:

- Make a written record of the information (where possible in the child / adult'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, or the deputy in their absence or; where the designated senior manager is the subject of the allegation report to the deputy or other appropriate senior manager.

Initial action by the designated senior manager

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

They should:

- Obtain written details of the concern / allegation, signed and dated by the person receiving (not the child / adult making the allegation);
- Approve and date the written details;
- Record any information about times, dates and location of incident/s and names of any potential witnesses.

Record discussions about the child and/or member of staff, any decisions made, and the reasons for those decisions.

The designated senior manager should report the allegation to the LADO and discuss the decision in relation to the agreed threshold criteria in [Section 1, Introduction and Criteria](#) within one working day. Referrals should not be delayed in order to gather information and a failure to report an allegation or concern in accordance with procedures is a potential disciplinary matter.

If an allegation requires immediate attention, but is received outside normal office hours, the designated senior manager should consult the Children's Social Care emergency duty team or local Police and inform the LADO as soon as possible.

If a Police officer receives an allegation, they should, without delay, report it to the designated detective sergeant on the relevant investigation team. The detective sergeant should then immediately inform the LADO.

Similarly an allegation made to Children's Social Care should be immediately reported to the LADO.

Initial consideration by the designated senior manager and the LADO

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

- A Police investigation of a possible criminal offence;
- Children's Social Care enquiries and/or assessment about whether a child is in need of protection or services;
- Consideration by an employer of disciplinary action.

The LADO and the designated senior manager should consider first whether further details are needed and whether there is evidence or information that establishes that the allegation is false or malicious. Care should be taken to ensure that the child is not confused as to dates, times, locations or identity of the member of staff.

If the allegation is not demonstrably false and there is cause to suspect that a child is suffering or is likely to suffer significant harm, the LADO should refer to Children's Social Care and ask them to convene an immediate Strategy Meeting:

- If a child is not believed to have suffered, or to be likely to suffer Significant Harm but a Police investigation will continue, the Local Authority Designated Officer (LADO) should conduct this discussion with the Police, the designated senior manager and any other agencies involved to evaluate the allegation and decide how it should be dealt with;
- This evaluation discussion should take place within one working day and must consider how to take matters forward in a criminal process parallel with a disciplinary process or whether any disciplinary action will need to await the completion of the Police enquiries and/or prosecution. The progress should be reviewed by the Police no later than four weeks after the initial evaluation meeting and thereafter at fortnightly or monthly intervals.

Strategy Meeting

Wherever possible, a Strategy Meeting should take the form of a meeting. However, on occasions a telephone discussion may be justified. The following is a list of possible participants:

- LADO;
- Social care manager to chair (if a Strategy Meeting);
- Relevant social worker and their manager;
- Detective sergeant;
- The Designated and/or named Safeguarding Children Health Professional (CCG); and always when an allegation concerns a health agency worker /professional;
- Consultant paediatrician;

- Designated senior manager for the employer concerned;
- Human resources representative;
- Legal adviser where appropriate;
- Senior representative of the employment agency or voluntary organisation if applicable;
- Manager from the fostering service provider when an allegation is made against a foster carer;
- Supervising social worker when an allegation is made against a foster carer;
- Those responsible for regulation and inspection where applicable (e.g. CQC, GMC or Ofsted);
- Where a child is placed or resident in the area of another authority, representative/s of relevant agencies in that area;
- Complaints officer if the concern has arisen from a complaint.

The Strategy Meeting should:

- Decide whether there should be a Section 47 Enquiry and / or Police investigation and consider the implications;
- Consider whether any parallel disciplinary process can take place and agree protocols for sharing information;
- 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 control or restrain children (e.g. [section 93, Education and Inspections Act 2006](#) in respect of teachers and authorised staff);
- Consider whether a complex abuse investigation is applicable; see [Organised and Complex Abuse Procedure](#);
- Plan enquiries if needed, allocate tasks and set timescales;
- Decide what information can be shared, with whom and when.

The Strategy Meeting should also:

- 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 be affected;
- Consider what support should be provided to the member of staff and others who may be affected and how they will be kept up to date with the progress of the investigation;
- Ensure that investigations are sufficiently independent;
- Make recommendations where appropriate regarding suspension, or alternatives to suspension;
- Identify a lead contact manager within each agency;
- Agree protocols for reviewing investigations and monitoring progress by the LADO, having regard to the target timescales;
- Consider issues for the attention of senior management (e.g. media interest, resource implications);
- Consider reports for consideration of barring;
- Consider risk assessments to inform the employer's safeguarding arrangements;
- Agree dates for future Strategy Meetings.

A final Strategy Meeting should be held to ensure that all tasks have been completed, including any referrals to the DBS if appropriate, and, where appropriate, agree an action plan for future practice based on lessons learnt.

The Strategy Meeting should take in to account the following definitions when determining the outcome of allegation investigations:

1. **Substantiated:** there is sufficient identifiable evidence to prove the allegation;

2. **False:** there is sufficient evidence to disprove the allegation;
3. **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive;
4. **Unsubstantiated:** this is not the same as a false allegation. It means that there is insufficient evidence to either prove or disprove the allegation; the term therefore does not imply guilt or innocence.

Allegations against staff in their personal lives

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 child/ren for whom the member of staff is responsible, the general principles outlined in these procedures will still apply.

The Strategy Meeting should decide whether the concern justifies:

- Approaching the member of staff's employer for further information, in order to assess the level of risk of harm; and / or
- Inviting the employer to a further Strategy Meeting about dealing with the possible risk of harm.

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 and a joint Strategy Meeting convened.

In some cases, an allegation of abuse against someone closely associated with a member of staff (e.g. partner, member of the family or other household member) may present a risk of harm to child/ren for whom the member of staff is responsible. In these circumstances, a Strategy Meeting should be convened to consider:

- The ability and/or willingness of the member of staff to adequately protect the child/ren;
- Whether measures need to be put in place to ensure their protection;
- Whether the role of the member of staff is compromised.

Disciplinary Process

Disciplinary or suitability process and investigations

The LADO and the designated senior manager should discuss whether disciplinary action is appropriate in all cases where:

- It is clear at the outset or decided by a Strategy Meeting that a Police investigation or LA Children's Social Care enquiry is not necessary; or
- The employer or LADO is informed by the Police or the Crown Prosecution Service that a criminal investigation and any subsequent trial is complete, or that an investigation is to be closed without charge, or a prosecution discontinued.

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 or trial;
- The different standard of proof in disciplinary and criminal proceedings.

In the case of supply, contract and volunteer workers, normal disciplinary procedures may not apply. In these circumstances, the LADO and employer should act jointly with the providing agency, if any, 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. See [Section 8, Substantiated Allegations and Referral to the DBS](#).

If formal disciplinary action is not required, the employer should institute appropriate action within three working days. If a disciplinary hearing is required, and further investigation is not required, it should be held within 15 working days.

If further investigation is needed to decide upon disciplinary action, the employer and the LADO 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. The investigation should not be conducted by a relative or friend of the member of staff.

The aim of an investigation is 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. Its purpose is not to prove or disprove the allegation.

If, at any stage, new information emerges that requires a child protection referral, the investigation should be held in abeyance and only resumed if agreed with LA Children's Social Care and the Police. Consideration should again be given as to whether suspension is appropriate in light of the new information.

The investigating officer should aim to provide a report within ten working days.

On receipt of the report the employer should decide, within two working days, whether a disciplinary hearing is needed. If a hearing is required, it should be held within 15 working days.

Sharing information for disciplinary purposes

Wherever possible, 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 CPS 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 and the LADO straight away so that appropriate action can be taken.

6. Record Keeping and Monitoring Progress

Record keeping

Employers should keep a clear and comprehensive summary of the case record on a person's confidential personnel file and give a copy to the individual. The record should include details of how the allegation was followed up and resolved, the

decisions reached and the action taken. It should be kept 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 if the person has moved on. It will provide clarification where a future DBS request reveals non convicted information, and will help to prevent unnecessary reinvestigation if an allegation re-surfaces after a period of time. In this sense it may serve as a protector to the individual themselves, as well as in cases where substantiated allegations need to be known about to safeguard future children.

Details of allegations that are found to be malicious should be removed from personnel records. For Education services see [Keeping Children Safe in Education: Statutory Guidance for Schools and Colleges](#).

Monitoring progress

The LADO should monitor and record the progress of each case, either fortnightly or monthly depending on its complexity. This could be by way of review Strategy Meetings / Initial Evaluations or direct liaison with the Police, Children's Social Care, or employer, as appropriate. Where the target timescales cannot be met, the LADO should record the reasons.

The LADO should keep 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 [Department for Education \(DfE\)](#) as required.

If a Police investigation is to be conducted, the Police should set a date for reviewing its progress and consulting the CPS about continuing or closing the investigation or charging the individual. Wherever possible, this should be no later than four weeks after the Strategy Meeting / Initial Evaluation. Dates for further reviews should also be agreed, either fortnightly or monthly depending on the complexity of the investigation.

7. Unsubstantiated and False Allegations

Where it is concluded that there is insufficient evidence to substantiate an allegation, the Chair of the Strategy Meeting or initial evaluation should prepare a separate report of the enquiry and forward this to the designated senior manager of the employer to enable them to consider what further action, if any, should be taken.

False allegations are rare and may be a strong indicator of abuse elsewhere which requires further exploration. If an allegation is demonstrably false, the employer, in consultation with the LADO, 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.

If it is established that an allegation has been deliberately invented, the Police should be asked to consider what action may be appropriate.

8. Substantiated Allegations and Referral to the DBS

Substantiated allegations

The [Disclosure and Barring Service \(DBS\)](#) was established under the Protection of Freedoms Act 2012 and merges the functions previously carried out by the Criminal Records Bureau and Independent Safeguarding Authority (ISA). The relevant legislation is set out in the [Protection of Freedoms Act 2012](#).

If an allegation is substantiated and the person is dismissed or the employer ceases to use the person's service or the person resigns or otherwise ceases to provide his/her services, the LADO should discuss with the employer whether a referral should be made to the Disclosure and Barring Service (DBS).

If a referral is to be made; it should be submitted within one month of the allegation being substantiated.

Bodies with a legal duty to refer

The following groups have a **legal duty to refer** information to the DBS:

- Regulated Activity suppliers (employers and volunteer managers);
- Personnel suppliers;

- Groups with a power to refer.

Bodies with the power to refer

The following groups have a **power to refer** information to the DBS:

- Local authorities (safeguarding role);
- Health and Social care (HSC) trusts (NI);
- Education and Library Boards;
- Keepers of registers e.g. General Medical Council, Nursing and Midwifery Council;
- Supervisory authorities e.g. Care Quality Commission, Ofsted.

If the person being referred to the DBS is a teacher in England they should also be referred to the [National College for Teaching and Leadership](#).

9. Learning Lessons

The employer and the LADO should review the circumstances of the case to determine whether there are any improvements to be made to the organisation's procedures or practice.

10. Procedures in Specific Organisations

It is recognised that many organisations will have their own procedures in place, some of which may need to take into account particular regulations and guidance (e.g. schools and registered child care providers). Where organisations do have specific procedures, they should be compatible with these procedures and additionally provide the contact details for:

- The designated senior manager to whom all allegations should be reported; ANGELA STANTON HEADTEACHER

- The person to whom all allegations should be reported in the absence of the designated senior manager or where that person is the subject of the allegation; MARK HUGHES DEPUTY HEADTEACHER JOE CANNON CHAIR OF GOVERNORS
- The LADO. To contact a LADO, a referral form is used: [Position of Trust Multi-Agency Referral Form](#). The referral form is emailed to the LADO at their direct email address which is: lado@warwickshire.gov.uk.