

# **Procedure for Managing Allegations Against Adults who work with Children and Young People.**

## **Introduction**

“Working Together to Safeguard Children” 2006 places an explicit duty upon Safeguarding Children Boards to ensure that there are effective inter-agency procedures in place for dealing with allegations against people who work with children. Chapter 6 and Appendix 5 of “Working Together” offer guidance on the nature of these procedures and the key components which must be in place. This procedure reflects the expectations of Working Together to Safeguard Children 2006 as well as government guidance on the investigation of allegations against Foster Carers, Childminders and School Staff.

## **Principles of a Child’s Welfare**

Throughout this Section the underlying principles are that the **welfare of the child is paramount** and **delays in responding to a child who may suffer harm is not acceptable.**

## **Scope of procedure**

This procedure sets out the process to be followed by agencies when responding to allegations against adults who work with children and young people, including the thresholds for implementation of the procedure and guidance regarding appropriate timescales for investigation.

TWSCB member agencies will be expected to draft, or revise, their own internal procedures for the investigation of such allegations to ensure that they are compliant with the process outlined in this document.

This procedure will also address how these allegations are recorded and the reporting mechanism to ensure that the TWSCB can monitor and review the effectiveness of this process.

## **Threshold for implementation of this procedure.**

This procedure should be used in all cases where it is alleged that a person who works with children or young people has:

- Behaved in a way that has harmed a child or may have harmed a child.
- Possibly committed a criminal offence against or related to a child; or
- Behaved towards a child or children in a way that indicates s/he is unsuitable to work with children.

This procedure applies to both paid and voluntary work. If the allegation is specific to an Educational setting the DfES guidance “Definitions and Thresholds for Managing Allegations against Education Staff” Feb 2005 should be consulted

There may be 3 strands in the consideration of an allegation:

- 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
- Consideration by an employer of disciplinary action in respect of the individual. If concerns arise about a person’s behaviour with regard to their own children, Police and/or Social Care professionals will need to consider informing the person’s employer in order to assess whether there may be implications for children with whom the person has contact at work

## Key professional roles

### ***Local Authority Designated Officer (LADO).***

Within Telford & Wrekin the two Principal Officers for Child Protection will undertake the role of the *Local Authority Designated Officer (LADO)* whose responsibilities will include:

- Management and oversight of individual cases from all partner agencies of the TWSCB if the allegation meets the thresholds laid out below.
- Provide advice and guidance to *Senior Managers* (see below).
- Monitoring the progress of cases to ensure they are dealt with within agreed timescales.
- Ensuring a consistent and thorough process for all adults working with children and young people against whom allegations are made.
- Responsibility for maintaining information databases in relation to all allegations.
- Producing qualitative and quantitative reports for the TWSCB and the **DCSF**.
- Attendance at or chairing of Strategy and Resolution meetings; liaising with chairs of those meetings if not chairing.
- Contributing to TWSCB training programmes and awareness raising across the Children's Workforce.
- Liaising with The Safeguarding Team at The Mount, Police and the Crown Prosecution Service.
- Discussing with *Senior Managers* the possibility of referral to the Protection of Children Act list or to the appropriate regulatory body.

The LADO should be informed of all allegations that come to the attention of *Senior Managers*. In cases where the nature of the allegation has not required immediate referral to Social Care or the Police, the *Senior Manager* and *the LADO* will make a decision jointly as to whether such a referral is necessary and who will make it.

### ***Named Senior Officer***

TWSCB member organisations will each appoint a *Named Senior Officer* whose responsibilities will include:

- Ensuring that their organisation complies with the standards and procedure outlined in this document.
- Ensuring that this procedure is reflected and implemented within their own agency procedure.
- Ensuring that their workforce is aware of and implements the procedures regarding allegations against adults who work with children and young people.
- Ensuring that their organisation has systems in place to review cases and identify and then implement any changes which would improve both procedures and practice.
- Resolving any inter-agency issues which impede the implementation of the TWSCB procedure.
- Ensuring that their organisation has effective reporting and recording arrangements are in place.
- Ensuring that their organisation's Child Protection Policy has a clear reference to allegations made against staff.

### ***Senior Manager***

Should an allegation be made in respect of an employee (or volunteer) of a TWSCB member organisation, or another employer who provide services to children or young

people, the *Senior Manager* on each occasion will be the person responsible for undertaking any disciplinary action. In relation to this procedure, their responsibilities will include:

- Ensuring that this procedure is properly applied and implemented within their organisation.
- Referring allegations in accordance with this procedure and their internal procedure.
- Gathering any additional information which may have a bearing on the allegation, for instance: previous concerns, care and control incidents.
- Providing the subject of the allegation with information and advise them to inform their Union or Professional Body.
- Attend Strategy, Resolution or Professionals meetings where required.
- Liaising with the LADO.
- Liaising with Human Resources where disciplinary action is required.
- Ensuring that risk assessments are undertaken where and when required.
- Undertaking appropriate checks with data held by their organisation.
- Providing reports and information as required by their *Named Senior Officer*.
- Should the allegation be unfounded, give consideration to a referral to either social care or the police if the allegation is deemed to be deliberately malicious or invented.

In order to meet these responsibilities the *Senior Manager* will need to access advice and guidance from the LADO; have access to a recording and monitoring system and be familiar with this document.

The *Senior Manager* may be, or may represent, the employer.

## **Police**

West Mercia Police will appoint Officers have named similar to Named Senior Officer and Senior Manager. The Senior Officer will have a strategic oversight of these arrangements, liaising with all Safeguarding Boards in the West Mercia Police force area while others, possibly unit managers, will be responsible for liaising with specific LADO's, taking part in strategy discussions, reviewing cases where there is a police investigation and sharing information on the completion of an investigation or prosecution.

## **Underlying Principles**

### ***Supporting those involved.***

- *Parents or carers of a child or children involved* should be told about the allegation as soon as possible if they do not already know about it. The LADO will discuss with the Senior Manager how and by whom they should be informed; if police or social care need to be informed of the allegation then they will also be consulted about how best to proceed. It is accepted that some circumstances will arise in which the employer must inform the parents of an incident straight away, for instance if the child has been injured and requires medical treatment. Parents or carers should be kept informed of the progress of the investigation and be told of the outcome where there is no criminal prosecution; should a disciplinary hearing take place then the outcome can be shared although the information considered in reaching a decision cannot normally be shared.

- *Children* thought to have suffered significant harm or to be victims of a criminal offence should have their need for support considered by children's social care or the police.
- *The person who is the subject of the allegation* should be kept informed of the progress of the investigation by their employer who should also provide appropriate support to that person during the investigative process. If the person is suspended the employer should make arrangements to keep the

individual informed of developments in the workplace. If the person is a member of a trades union or a professional association they should be advised to contact that body at the outset of the investigation.

### **When an allegation is made against the LADO, Named Officers or Senior Manager**

- In this instance the Chair of the TWSCB will consult with Senior Board Members on how to progress with the allegation.

### ***Confidentiality***

- Every effort should be made to maintain confidentiality and guard against publicity while an allegation is being investigated. Any media interest should be directed through the West Mercia Police Public Relations Team.
- The police will not normally provide any information to the Press or media that might identify an individual subject to investigation unless and until that person is charged with a criminal offence.
- In exceptional cases the police might depart from this rule but partner agencies should be consulted beforehand with the reasons then documented.

### ***Resignations and 'Compromise Agreements'***

- The fact that a person tenders their resignation or ceases to provide a service must not prevent an allegation being followed through in accordance with these procedures.
- Whether or not an individual cooperates with an investigation, or remains in employment at its conclusion, it is important that the investigation continues, considering all available evidence in an attempt to reach a judgement about the allegation.
- It therefore follows that so called 'compromise agreements' (by which a person agrees to resign, the employer agrees not to pursue disciplinary action and both parties agree a formula of words to be used in future references) should not be used in these cases. Such an agreement would not, in any case, prevent police action nor can it override an employer's duty to make a referral to the Protection of Children Act list or the DCSF List 99 should circumstances require this.

### ***Record keeping***

- It is important that employers keep a clear and comprehensive summary of any allegations made, details of how the allegation was followed up and resolved. This record should be placed on the person's confidential personnel file with a copy given to the individual.
- The record should be kept at least until the person reaches retirement or for ten years if that would be longer.
- The purpose of the record is to enable accurate information to be given in response to any future request for a reference.

### ***Timescales***

- Every effort should be made to resolve cases as quickly as possible consistent with a fair and thorough investigation.
- Indicative timescales for each stage are suggested within the guidance on the process of investigation: these are included to provide useful targets which should be achievable in many cases however; it is acknowledged that the time taken to resolve individual cases depends on a variety of factors such as the nature of the allegation, its seriousness and complexity. These timescales are not performance indicators.

- Data about allegations against staff show that it is reasonable to expect that 80% of cases be resolved within 1 month, 90% within 3 months and all but the most exceptional should be completed within 12 months.
- It is unlikely that cases which require a complex police investigation or a criminal prosecution will be resolved in less than 3 months.

### ***Oversight and monitoring***

- This is ensured through the appointment of the specific officers detailed above: the Local Authority Designated Officer, the Named Senior Officer and the Senior Manager.

### ***Historical abuse***

- Should an adult report abuse that they suffered as a child while living away from home in settings provided by local authorities, the voluntary sector or independent providers, they should be responded to in the same way as contemporary concerns.
- In these cases it is important to ascertain whether the person accused is still working with children and, if so, to inform their current employer or voluntary organisation.

### ***Patterns***

- It is important that those undertaking investigations be alert to any sign or pattern that suggests the abuse is more widespread or organised than it at first appears.
- These signs will not necessarily be directly related to abuse but might include blurred professional boundaries, inappropriate behaviour, fraud, deception or the use of pornography.
- The inappropriate use of Computers and any usage patterns should be reported to the LADO immediately.

## Process of the investigation

### *Initial Considerations*

- The LADO should be informed of all allegations that come to the employer's attention and appear to meet the threshold criteria for this procedure. This will enable the LADO to consult police and social care colleagues as appropriate.
- This should be done within 1 working day of the employer becoming aware of the allegation.
- The LADO should also be informed of any allegations that are made directly to the police or to children's social care.
- The LADO will first establish with the employer that the allegation falls within the scope of these procedures and may have some foundation; this discussion will also consider how best to inform the parents or carers of the child concerned, consulting with police and children's social care if this is appropriate.
- For Foster Carers the Social Care Policy & Procedures "Allegations Against Foster Carers" FP 5.1 May 2005 will be followed
- In the case of Early Years Settings the Protocol with OfSTED who have the power to suspend registration will be followed, as will the Early Years reporting procedure
- The employer should inform the accused person about the allegation as soon as possible after consulting the LADO however, where a strategy discussion is needed or it is clear that the police or children's social care may need to be involved, this should not be done until agencies have been consulted and agreed what information can be disclosed to the person. If the person is a member of a trade union or a professional association they should be advised to seek support from that organisation.
- If there is cause to believe the child has suffered or is likely to suffer significant harm then a strategy meeting should be convened in accordance with TWSCB Child Protection guidance. The employer, or a representative of the employer, should be invited to the strategy meeting unless there is good reason not to do so.
- If a formal child protection strategy meeting is not required but a police investigation might still be needed, the LADO should have a similar discussion with the police, the employer and any other agencies involved with the child to evaluate the allegation and decide how it should be dealt with. The police must be consulted about any case in which a criminal offence may have been committed. This discussion, like a strategy meeting, need not be a face to face meeting but should share available information about the allegation, the child and the person accused, consider whether a police investigation is needed and, if so, agree the timing and conduct of that. The discussion should also consider whether any disciplinary process should await the outcome of the police investigation or proceed in parallel with it.
- In cases where it is clear that it is not necessary for the police or children's social care to undertake investigations, or this is decided following initial consultations, the LADO should discuss the next steps with the employer: the options range from taking no further action to summary dismissal or a decision not to use the person's services in the future.
- Appropriate action by the employer should be instituted within 3 working days unless a disciplinary hearing is required and can be held without further investigation, if so the hearing should take place within 15 working days of the discussion with the LADO.
- In some cases further investigation will be required to enable a decision to be

made about how to proceed. If so, the LADO will discuss with the person's normally be by the employer however in some circumstances the nature and complexity of the allegation might point to the employer commissioning an independent investigation.

- The further investigation should report within 10 working days of the discussion with the LADO. The employer should then make a decision about the need for a disciplinary hearing within 2 working days of receipt of the report. If a disciplinary hearing is to be held it should convene within 15 working days.
- The LADO should continue to liaise with the employer to monitor progress of the investigation and provide advice and support when required or requested.

### ***Suspension***

- The employer will have to consider the suspension of the accused person in any case where there is cause to suspect that a child is at risk of significant harm or the allegation warrants investigation by the police or it is sufficiently serious that it might be grounds for dismissal.
- People should not be suspended automatically or without careful thought. Consideration should be given whether the process "can be managed" based on the allegation and its merits. However the child's welfare will be paramount.
- Employers must consider carefully whether the circumstances of the case warrant suspension until the allegation is resolved.
- The power to suspend is vested in the employer alone however in circumstances where the police or children's social care are to be involved the LADO will canvass their views in order to inform the employer's decision making.

### ***Monitoring progress***

- The LADO should regularly monitor the progress of cases via review strategy discussions or through liaison with professional colleagues as appropriate. Reviews should take place at fortnightly or monthly intervals depending on the complexity of the case.
- If a police investigation is required, the police should set a target date for reviewing the progress of their investigation and consulting the Crown Prosecution Service to consider whether to charge the individual, continue the investigation or close it down. Wherever possible this review discussion should take place no later than 4 weeks after the initial meeting to consider the allegation. Dates for subsequent reviews, at fortnightly or monthly intervals, should be set at the first review if the investigation is to continue.

### ***Information sharing***

- At the beginning of the process all agencies involved in the investigation of the allegation, including the employer, should share all information they have about the person who is subject of the allegation and their victim.
- Wherever possible the police should obtain consent from the individuals concerned to share the statements and evidence they obtain with the employer, and/or regulatory body, for disciplinary purposes. This should be done as the investigation proceeds rather than after it is concluded. This will enable the police and the Crown Prosecution Service to share relevant information without delay at the conclusion of their investigation or any court case.
- Children's social care should follow a similar procedure when making enquiries to determine whether the child or children named in the allegation require protection or services.

### ***Action following a criminal investigation or a prosecution.***

- The Police or the Crown Prosecution Service should inform the employer and the LADO when a criminal investigation or trial is complete, or if it is decided to close an investigation without charge or not to prosecute after the person has been charged. Normally this will be in the confines of a Resolution Meeting.
- In these circumstances the LADO will discuss with the employer whether any further action is required and, if so, how to proceed. The information provided by the police and/or children's social care should inform that decision.
- Action by the employer, including dismissal, is not ruled out in any of these circumstances: the range of options will depend upon the circumstances of the case and different standards of proof required in disciplinary and criminal proceedings.

### ***Action on conclusion of a case***

- If the allegation is substantiated and the person is dismissed, or the employer ceases to use the person's services, or the person resigns or otherwise ceases to provide their services, the LADO should discuss with the employer a referral to the Protection of Children Act List or DCSF List 99 is required or advisable along with the form and content of any such referral. Also, if the person is subject to registration or regulation by a professional body the LADO should advise on whether a referral to that body would be appropriate.
- If it is decided that a person who has been suspended can return to work the employer should consider how best to facilitate that. A phased return and/or the provision of a mentor may be appropriate. The person should also consider how the person's contact with the child or children who made the allegation can be best managed if they are still in the workplace.
- If an allegation is determined to be unfounded, the employer should refer the matter to children's social care to determine whether the child concerned is in need of services or may have been abused by someone else.
- In the rare event that an allegation is shown to have been deliberately invented or malicious, the police should be asked to consider whether any further action against the person responsible might be appropriate.

### ***Learning lessons***

- At the conclusion of a case in which the allegation is substantiated the employer should review the circumstances of the case to determine whether there are any improvements to be made to the organisation's procedures or practice to help prevent similar events in the future.