

Managing Allegations Against Adults that Work with Children

A guide for subject of the allegation

Any allegation of abuse is likely to cause a great deal of anxiety and concern. This guide is intended to help you to be as well informed as possible should you be faced with an allegation.

Introduction

Becoming the subject of an allegation is always stressful for the individual concerned and for their family. The challenge for everyone involved is to ensure that children are effectively safeguarded, that their welfare is promoted while at the same time treating persons accused fairly and honestly.

Terminology

The following references may be made:

LADO - The LADO (Local Authority Designated Officer) provides advice and guidance to employers and other individuals/organisations who have concerns relating to an adult who works with children and young people (including volunteers, agency staff and foster carers) or who is in a position of authority and having regular contact with children (for example religious leaders or school governors).

Children's Services - is the new term that has replaced "social services". These services support and protect vulnerable children, young people, their families and young carers.

Child Abuse Investigation Unit – This is the department of Hertfordshire Police that investigates allegations against adults that work with children.

Some of these terms may differ in other local authorities.

What happens when an allegation is made?

Your organisation's Designated Senior Manager (DSM) should immediately consult the LADO if it is alleged that a member of staff or volunteer 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 he or she would pose a risk of harm to children.**

You should be told about the allegation as soon as possible, but this may be delayed if police or social care need to agree how much information can be disclosed. If it is clear to the DSM and LADO that the allegation is demonstrably false, you should be informed of the allegation, that it is without foundation and that no further action will be taken.

In Hertfordshire around 90% of allegations do not progress past this stage and the matter is handed back to the organisation to be considered under their internal management procedures.

Please note the allegation may relate to an incident at your place of work, but could also relate to an incident within your family, the community or another organisation.

What will the LADO do?

The LADO's role is to ensure that everyone is treated fairly and offered support. The LADO will also keep a watch over how long investigations are taking and challenge any unnecessary delays.

It is very important that everyone involved is listened to and that all the evidence is considered carefully. In this way the LADO helps to ensure that the right outcome is achieved.

The LADO will initially decide if the allegation(s) need to be investigated externally (by the police and/or Children's Services) or should be investigated by the internal procedures of the organisation that the adult works for. This decision may be made at a LADO Strategy Meeting or a Joint Evaluation Meeting chaired by the LADO, or in discussion with the Child Abuse Investigation Unit of the police. The meeting is likely to involve the Police, the LADO, the employer, and other agencies such as Health and Education as appropriate. You will not be asked to attend (neither will the child or their family) as this is a meeting where confidential information will be given about both you and the child.

In most cases the LADO will not have direct contact with the subject of the allegation (or the affected child(ren) and their family). Communication will be via the employer. In some case Union Representatives will contact the LADO on their member's behalf.

What happens if the police and/or Children's Services may need to investigate?

If there is reason to suspect a child may have suffered harm, or a criminal offence might have been committed, a LADO strategy meeting, or in some circumstances a Joint Evaluation Meeting will be held.

This meeting is held to consider all available information and whether the police and/or Children's Services should investigate further or if the allegation can be investigated by the employer and/or regulatory body.

If the police decide to investigate an alleged criminal offence you may be arrested, or formally invited to assist with the investigation.

At the police station you will be entitled to free and independent legal advice. You can see a Duty Solicitor, but if you want to use your own make sure s/he specialises in criminal law.

If 'assisting with the investigation' and not under arrest, you should be told that you are free to leave if you wish to do so. If arrested, you will be seen by the Custody Officer who will explain your rights in detail, including the right to have someone informed and to consult and read the "Code of Practice" that covers treatment during detention and interview. The custody officer will maintain a record of your period of detention.

The police will then make decisions about whether you are bailed/charged by the police (pending further enquiries) or are released without arrest/charge. It is possible that in some rare cases an adult may be charged with offences at this stage and could be either bailed or remanded in custody.

Decisions about charging rest with the Crown Prosecution Service who act independently of the police. If you admit the offence, the CPS may advise a caution i.e. a formal warning about your actions. A caution will be recorded by the police and may influence a decision about instituting proceedings should you offend again. A caution could affect your ability to work with children in the future, and in sexual abuse cases, could result in you being placed on the Sex Offenders Register. You should seek advice from your solicitor before agreeing to accept a caution.

If the CPS advises the police to charge you, this will be carried out by the custody officer. You will then either be released on bail to appear in court at a future date or kept in custody to appear at the next available court. The responsibility for the prosecution will lie with the CPS.

It is possible as part of this process a referral to Children's Services is made. This will be to ask them to consider if they need to assess the needs of child(ren) you may come in to contact with through your family, this could include your own children, grandchildren, nieces and nephews.

In such cases, it is likely the LADO's involvement in the case will remain until the conclusion of both criminal and employment processes. At which point a final Strategy/Joint Evaluation Meeting will be held.

What happens if the police and/or Children's Services do not need to investigate?

It is then necessary to decide whether the person may have broken the rules laid down by their employer. These cases are investigated by the employer using their internal procedures.

This investigation may be conducted under disciplinary procedures, but if these do not apply an investigation may still be necessary to assess someone's suitability to work with children.

If an investigation is needed the LADO should discuss with the employer how and by whom it will be undertaken. It may be conducted by a senior member of staff or by an independent person depending on the availability of resources within the organisation and the nature and complexity of the case.

An internal investigation may be delayed if there is a police investigation, so that it does not prejudice possible criminal proceedings. There should however, be a discussion with the police as to whether any internal matters can be taken forward in parallel with the criminal process.

What about suspension?

Suspension should not be automatic and alternatives should be considered. The decision is made by the employer, but s/he should seek advice from the HR provider, and the LADO who should canvass the views of police and social care if involved. The final decision is the employer's. It should be considered in all cases where:

- **There is cause to suspect a child is at risk of significant harm, or**
- **The allegation warrants a police investigation**
- **It is so serious that it might be grounds for dismissal.**

Who will know about the allegation?

Confidentiality should be respected and people only told about allegations on a 'need to know' basis. Those informed may include:

- **The child concerned, his/her 'parents' and any party making the allegation.**
- **Your employer**
- **The LA Designated Officer for Allegations (LADO)**
- **Senior members of staff**
- **Manager of the placing agency, if appropriate.**

There may be occasions when the police will need to decide the appropriate timing for individuals to be notified. Where, unfortunately, a matter becomes common knowledge or subject to speculation it may also become necessary to issue brief and accurate statements for parents, children and the public. The strategy group will advise the employer on this matter.

What happens if I resign and want to leave?

It is important to reach a conclusion in all cases of allegations, including any in which the person concerned refuses to cooperate with the process. It may be difficult to reach a conclusion when someone resigns and does not wish to take part in the process, but it is important to reach and record a conclusion wherever possible.

Settlement agreements' (sometimes referred to as compromise agreements), by which a person agrees to resign if 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.

What about references and CRB/DBS check?

Cases in which an allegation was proven to be false, unsubstantiated or malicious may not be included in employer references. A history of repeated concerns or allegations which have all been found to be false, unsubstantiated or malicious may also not be included in any reference.

(A decision on the outcome/classification of the allegation will be made at the final Strategy/Joint Evaluation Meeting).

If the allegation was not investigated externally you may not have such an outcome, it is the decision of the employer as to whether they use such terms.

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 his or her services, the designated officer(s) should discuss with the LADO whether to make a referral to the Disclosure and Barring Service for consideration of inclusion on the barred lists is required; and in the case of a member of teaching staff whether to refer the matter to the National College for Teaching and Leadership (NCTL) to consider prohibiting the individual from teaching. Employers have legal duties around the DBS.

If you have been suspended and a decision is made for you to return to work your employer/organisation should assist you in planning this return.

It is not possible for the LADO to confirm if any allegation will be present on a CRB/DBS check. It is advisable to contact the relevant department of your local police, should you wish to confirm.

Further information regarding definitions of allegation is available on page 41 of 'Keeping Children Safe in Education' (DfE, 2016) - <https://www.gov.uk/government/publications/keeping-children-safe-in-education--2>

Support Checklist

- ❖ Contact your Union representative
- ❖ Ensure you have been given the name of a contact who will keep you up to date with progress of the investigation (you should be involved in who this is)
- ❖ If suspended. social contact should not be precluded unless it might be detrimental to the investigation, but colleagues should not discuss the investigation (you may wish to discuss further with your contact how this is managed)
- ❖ Offered the services of the Staff Counselling Service and/or Occupational Health where available
- ❖ Contact your GP if you feel that the situation is affecting your health
- ❖ Further information (including information sharing) is available in the document below

Section 4.1 “Managing Allegations Against t Adults Who Work With Children and Young People” can be viewed at:

http://hertsscb.proceduresonline.com/chapters/p_manage_alleg.html

