

# **A Guide Managers in respect of the Referral and the Management of Allegations against those who work with children in Croydon**

## **Introduction**

### **Role of the Local Authority Designated Officer**

The Local Authority Designated Officer (LADO) is involved in the management and oversight of individual cases; providing advice and guidance to employers and voluntary organisations; liaising with the police and monitoring the progress of cases to ensure that they are dealt with as quickly and consistently as possible through the use of a fair and thorough process.

The LADO should also be informed of any allegations that are made directly to the police (which should be communicated via the Police Designated Officer) or to Children's services. The LADO will ensure that allegations that meet the criteria are logged within Children's Services.

This guidance should be read in conjunction with the:-

- London Child Protection Procedures, Chapter 5- Allegations against Staff.
- Working Together to Safeguard Children: Appendix 5 (2010)
- Section 11 Children's Act 2004 and section 175 Education Act 2002- duties on organisations and individuals to safeguard and promote the welfare of children.

It should be followed by all organisations that provide services for children or young people, or provide staff or volunteers to work with or care for children or young people under the age of 18. The procedures also apply to foster carer's and prospective adopters.

All organisations should appoint a senior manager or designated officer to whom allegations/concerns are reported to in the first instance. A deputy should also be appointed to act in his/her absence or if the designated person/senior manager is the subject of the allegation. In a school this is the Head teacher (or the Chair of governors in the event of an allegation against the Head teacher).

## **Threshold for Referral**

This guidance is about managing cases of allegations where a professional has, or may have harmed a child or young person or committed a criminal offence against a child or young person. It is not just for those cases relating to significant harm and should be applied in all circumstances where an allegation is made or a concern arises that any person who works or has worked with children, in a paid or unpaid capacity 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 guidance will also apply to cases where investigations are conducted into either a professional's, an employee's or Volunteer's:

- Behaviour towards his /her own children or family members
- Involvement with potentially criminal or illegal activities that have implications for children.
- Conduct within or outside of the workplace that gives rise to concerns about safeguarding children

## **Confidentiality**

Every effort should be made to maintain confidentiality and guard against publicity while an allegation is being investigated or considered.

## **Referral**

All employers' procedures should identify a senior manager within their organisation to whom all allegations or concerns should be reported. Staff and volunteers should be made aware of who this person is, and who the designated alternative is, to contact in the absence of this person. Where there is no alternative person, staff and volunteers will need to know that they can go straight to the LADO to report their concerns.

Anyone with serious concerns about the behaviour/conduct of a professional towards children, where they believe the threshold has been met or if they are unsure, should report to the Local

Authority Designated Officer (LADO) on the same day or within 24 hours.

When a referral is received through the Children's Services concerning allegations against a Professional, the case should be discussed with the LADO immediately to decide what steps to take. If it is agreed to convene a meeting, then all sections of the Referral and Tracking form will need to be completed before sending to the LADO in Children's Quality Assurance and Safeguarding Service (CQASS).

When contact concerning a referral comes through to the LADO directly, the matter will be discussed with the senior nominated person in the organisation of the person against whom an allegation has been made. Advice will be given with regards to the progress of the case. If the LADO decides a strategy meeting needs to be convened, then the referrer will be advised to complete the Referral and Tracking form and return to CQASS. The LADO will liaise with Children's Services particularly when there is a named child/young person involved and advise them of the referral.

A referral should be made to Children's services if the alleged person has children of their own or resides with an adult who does.

A Head teacher/Senior nominated person who has been informed of a serious allegation should collate any other information at their disposal i.e what else is known about the staff member(s) and children/young people involved e.g

- Names, dates of birth, home addresses
- Length of service
- Specific role within the organisation
- Previous/current level of contact with the children involved
- Details of any relevant plans pertaining to the children, such as behaviour management plan, child protection plan, SEN
- Whether there have been any previous relevant concerns/allegations/disciplinary issues in respect of any of the individuals implicated
- Whether the adult subject has any children of their own or children who reside at the home address
- Check to see whether any other (contemporaneous) records exist which might relate to the alleged incident i.e

incident/accident forms, care and control/behaviour management records

The Head teacher should not investigate the matter by interviewing the person, any children or potential witnesses. Instead they should seek advice from the LADO.

**There can be up to 3 strands in the consideration and management of an allegation:-**

- Enquiries and assessment by Children's Services if a child is in need of protection, or in need of services.
- A police investigation into a possible criminal offence;
- Consideration by the employer of disciplinary action in respect of the individual.

It is essential that the common facts of the alleged abuse are applied independently to each of the three strands of possible enquiries/investigation. The fact that a prosecution is not possible does not mean that action in relation to safeguarding children, or employee discipline is not necessary or feasible.

**Initial Screening**

The first priority must be to ensure the immediate safety of the child and any other children affected or in contact with the staff member concerned. This includes the person's own children. In a Residential setting, it will be appropriate to consider what supervision arrangements are required to safeguard the child.

Some allegations will be so serious and will require immediate referral to the police for investigation. Therefore the manager or employer of the staff member should make no attempt to undertake enquiries or seek to determine the validity of the allegation(s) at this stage. Immediate safety action may need to be applied e.g. removal of the member of staff from the premises and any evidence needing to be secured and preserved. Any action should be subject to advice from the Police or LADO.

The person taking the referral should gain as much information as possible prior to emailing the referral to CQASS. See attached Appendix

If the person concerned has children living at the same address, then separate contact/referrals should be taken for these children. The following is to be obtained:

- Current location of the child/ren
- That the child/ren is/are safe.
- Is there any immediate injury or forensic evidence or concerns about the safety of the child/ren that require an immediate s.47 enquiry.
- Who has Parental Responsibility
- What school they attend

### **Form 87A (Social Work staff)**

The form 87A should be completed at all times whenever a referral for a strategy meeting is being requested. The Children's Services manager should ensure that this is sent to the Child Abuse Investigation Team (CAIT) police and a copy emailed to CQASS Business Support.

The above information should be forwarded to the LADO in CQASS on the same day the referral is received and should be timed, dated and signed by the recipient. It is recognised that all the information may not be available immediately and it is expected that every attempt to gain the information will be made for processing on the same day. However, this should not delay the referral being forwarded to the LADO. The Intake team – Children's Services will be responsible for obtaining any outstanding information within a reasonable timescale.

### **Strategy Meetings**

If a strategy meeting or an initial evaluation meeting is to be convened then no action must be taken by the employer prior to the outcome of this meeting, unless agreed with the LADO and investigating agencies in order to provide information for the meeting or to safeguard children. This meeting should be held within 3 working days.

Where it is decided that a s.47 enquiry or police investigation is to be undertaken a date should be set for a reconvened meeting within 2-4 weeks. At times, dependent on the complexity of the matter, meetings may be called weekly. The LADO in consultation with the Children's Services manager will agree who should Chair any strategy meeting, having considered any possible conflict of interest and/or confidentiality issues.

The Chair will be responsible for ensuring that the discussion at the meeting is properly recorded and details of decisions made

sent to all invitees. There is a need to ensure that the Chair is not familiar with any individual involved in the allegation so that they can be independent.

The following should be invited to the meeting except where it may be prejudicial to the investigation:

- The statutory agencies responsible for carrying out the investigation, i.e. Police/Children's services. If the child is known to Children's Services, these enquiries will be undertaken in conjunction with the child's social worker including where required the Supervising Social Worker within Fostering and Adoption teams.
- Manager of the establishment or service concerned, taking care to avoid any conflict of interest; e.g. where the allegation is against a Head teacher, the attendance of the Chair of Governors may be appropriate.
- Advisory staff e.g. the employing organisation's Human Resources Advisor/Legal services Advisor/ representative from the Local Authority Legal Services.
- In the case of alleged abuse in a registered or regulated setting, there should be liaison with the relevant regulatory body e.g. OFSTED, and they should be invited to strategy meetings. The employing organisation will hold copies of protocols and take responsibility for liaison with the relevant regulatory body.
- Consideration should also be given to inviting the Regulation 33 Officer and Independent Reviewing Officer if the allegation is made by a child in public care.

When a decision is made to initiate s47 enquiries or a criminal investigation, the member of staff concerned should be contacted by an agreed person and informed of, (subject to the agreement of the strategy meeting/initial evaluation meeting):

- The nature of the allegation
- How the enquiries will be conducted
- Any conditions preventing discussion/contact with relevant persons.

This information should be confirmed in writing. Additionally they should be informed of:

- Their rights

- The possible outcomes e.g. criminal and/or disciplinary action
- Arrangements for ongoing support and provision of information
- How decisions will be made regarding referral for consideration of inclusion on those lists preventing or restricting their work with children and young people.

**Purpose of Strategy Meeting is to:**

- Share all relevant information
- Consider the current allegation or concern and review any previous allegations or concerns made against the member of staff and/or the establishment
- Decide whether there should be a s.47 enquiry/criminal investigation
- Ensure the scope and plan of any s.47 enquiry is appropriate and whether a complex abuse investigation is applicable
- Allocate tasks
- Identify who may need to be interviewed e.g. witnesses, staff, children
- Set timescales, decide who to inform and when
- Make recommendations that immediate suspension without prejudice, disciplinary, competency, regulatory or complaint procedures be undertaken
- Agree criteria for a re-referral where new evidence comes to light suggesting that a further strategy meeting/initial evaluation meeting needs to be convened
- Agree arrangements for the outcome of any internal process to be reported to the LADO and chair

**Additional considerations**

The meeting should, where appropriate:

- Ensure that all children who may have been affected are identified and considered, including any children the person has contact with in their professional and personal life e.g. own children, children of relatives and friends and children the person has contact with in any other paid or voluntary work
- Ensure that the child/ren and witnesses are supported and make plans to address any identified needs

- Recommend to the employing agency or responsible authority any action required to protect the interests of children whilst enquiries are conducted, including suspension or alternatives to suspension
- Consider what action may be taken if an employer refuses to suspend or transfer the member of staff as recommended by the meeting
- Agree any conditions to be placed on the staff member concerned regarding discussion/contact with any colleagues and children from the organisation and their parents (contact should normally only be prevented where potential witnesses could be intimidated or otherwise be at risk, or such contact would interfere with an investigation)
- Ensure where an allegation is against a foster carer that, wherever possible, placement stability is maintained for children and young people
- Ensure Ofsted is informed of any allegation or concern made against a member of staff in any day care establishment for children below the age of 8, or against a registered childminder.
- Consider the future running of the establishment if there appears to be a need to suspend a number of key individuals.
- Make arrangements to inform the child and parents of any children who may have been harmed and other child witness to be interviewed, and, consider how they will be involved, supported and information provided to them during any enquiries or investigations
- Make any necessary arrangements for individual support for all other persons, including children, parents, and staff of the establishment. This could include Trade Union and /or legal representation as appropriate
- Consider if any other agencies or organisations should be informed, including any regulatory or professional registering body and agree who will undertake this.
- Agree the initial information to be shared with the staff member who is the subject of the allegation and who will undertake this.
- Make arrangements for the ongoing support and provision of information to the staff member who is the subject of the allegation and determine who will undertake this.

**Subsequent Review Meetings** should be held at a minimum of monthly intervals and must address:

- Progress and results of enquiries
- Investigation strategy
- Agency cooperation
- Outcome of objectives
- Adherence to timescales
- Reasons for any delays and, where appropriate, how these should be addressed and resolved and by whom.
- Therapeutic and support needs of the child
- Support needs of the staff
- Appropriate applications for criminal injuries compensation
- Future needs of the establishment

The police must also set a date for reviewing its progress and consulting the Crown Prosecution Service (CPS) about continuing or closing the investigation or charging the individual. The police will inform the employer and the LADO of the final outcome. Wherever possible, this should be no later than 4 weeks after the strategy/initial evaluation discussion.

Allegations may be unsubstantiated from a criminal perspective either because they do not reach the threshold for a criminal prosecution or a person has not been convicted on the burden of proof 'beyond reasonable doubt'. However, there may be insufficient evidence for the case to be considered under internal procedures where the burden of proof is 'balance of probabilities'.

A final meeting must be held to review the case and categorise the allegation and plan any further actions required. This should include any matters arising, which should be brought to the attention of Croydon Safeguarding Children's Board, and/or organisation concerned regarding necessary review policy or procedures and/or training needs to be addressed.

Outcomes of internal procedures should be reported to the LADO and the strategy meeting chair. If an organisation has failed to instigate internal procedures, or the outcome of internal procedures causes concern to the LADO or the chair they must consider what appropriate action should be taken. This might involve reconvening a meeting and/or reporting the matter to the regulatory body, or a government department.

## **Timescales**

The guidance advises that:

- 80% of cases should be completed with 1 month
- 90% should be within 3 months (unless there are criminal prosecutions)
- All but the most exceptional cases should be resolved within 12 months.

The LADO will have a role in assuring quality and minimising undue delay by ensuring:

- The relevant agencies engage effectively in progressing inquiries.
- That strategies and plans are reviewed as required
- That obstacles to the process are identified and resolved
- That processes are compliant with guidance, procedures and legislation.

## **Record Keeping**

Employer's, Police and Children's Social Care should keep a clear and concise summary of the allegations and how they were followed and resolved on the individual's confidential personnel file and give a copy to the individual. Records should be kept until the person reaches retirement age or for 10yrs if that is longer.

The purpose of this is to:

- Provide accurate information for future reference
- Provide clarification if future CRB disclosure reveals an allegation that did result in a prosecution or conviction
- Prevent unnecessary re-investigation if the allegation should resurface at a later date.

## **Suspension**

Only an employer can suspend an employee. Suspension can be recommended but cannot be required by the Local Authority, Police or Children's Social Care. Suspension should not be automatic but should be considered in any case where:

- There is cause to suspect that a child is suffering significant harm
- The allegation warrants investigation by the police
- The allegation is so serious that it might be grounds for dismissal

If Children's Social Care and the police are to make inquiries or investigate, then the LADO should ascertain their assessment of the risks the accused individual may pose. The LADO should also obtain the views of Children's Social Care and the Police regarding the necessity or the appropriateness of informing the employer or suspending the accused individual.

**Referral to Regulatory bodies**

If the allegation is substantiated and on conclusion the employer dismisses the person or ceases to use the person's services, or the person ceases to provide his/her services, the employer must consult the LADO about whether a referral to a professional or regulatory body is required. If a referral is required, the report should be made within 1 month.

**Possible outcomes are as follows:**

**No further action after initial consideration:** Initial consideration means the discussion about whether the alleged incident constitutes an allegation (under the relevant criteria) i.e the initial discussion with the LADO, Social Care or the Police following which there maybe no need for further action under the procedures.

**Being Unfounded:** This indicates that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively they may not have been aware of all the circumstances. For an allegation to be classified as unfounded, it will be necessary to have evidence to disprove the allegation.

**Being unsubstantiated:** This is not the same as a false allegation. It simply means that there is insufficient identifiable evidence to prove or disprove the allegation.

**Being Malicious:** This means that there is clear evidence that prove a deliberate act to deceive has taken place, and that the allegation is entirely false.

**Suspension:** This would apply where an employer has taken the decision to ask the staff member to refrain from work or has suspended them for the duration of the investigative process.

**Dismissal:** This would apply where the employer has decided, following due consideration of the allegation, to dismiss the member of staff from their employment.

**Resignation:** This would apply where a person resigns before disciplinary proceedings can be completed, or resigns as an alternative to being dismissed.

**Cessation of use:** This would apply only in proven cases involving volunteers or non-contracted staff.

**Section 47 investigation:** This would apply where a local authority has made enquiries under the terms of section 47 of the Children Act 1989. This means that the local authority is under a duty to make enquiries, or cause enquiries to be made, where there is reasonable cause to suspect that a child is suffering, or likely to suffer significant harm.

**Criminal Investigation:** This would apply where the police have been involved in investigating an allegation to determine whether or not a criminal offence has been committed.

**Disciplinary Procedures:** This would be where the employer has considered the allegation under the terms of their own internal disciplinary investigation.

**Caution:** This would apply if the police issued any cautions, reprimands, warnings or bind-overs relating to the allegation.

**Conviction:** This is where the legal result of a criminal trial is that the defendant has been found guilty of a crime.

**Acquittal:** This is where the legal result of a criminal trial ends in a verdict of not guilty, or some similar end of court proceedings that terminate without a verdict of guilty being entered against the accused. An acquittal formally certifies the innocence of the accused, as far as the criminal law is concerned.

**Inclusion on Barred/restricted employment list:** As above, this applies to a decision to bar/restrict a person from working with children or young people.

**Referral to regulatory body:** For example the General Teaching Council, General Medical Council and Independent Safeguarding Association etc.

**Substantiated:** There is clear evidence that proves the allegations are true.