

SECTION 6

MANAGING ALLEGATIONS AGAINST PEOPLE WHO WORK WITH CHILDREN AND IN POSITIONS OF TRUST

6.1 Managing Concerns In Relation to Adults Who Work with Children

6.2 Investigating Complex (Organised or Multiple Abuse)

6.3 Glossary of terms

6.1 Managing Concerns in Relation to Adults Who Work with Children ***Concerns / allegations regarding people who work with children (paid staff members and volunteers)***

6.1.1. Introduction – Relevant Criteria

This chapter applies to all cases in which it is alleged that an individual 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; or**
- **behaved towards a child or children in a way that indicates they may pose a risk of harm to children.**

These will be referred to as “**The Relevant Criteria**” in the remainder of this chapter.

This guidance should be applied with common sense. Some cases may not appear to meet the relevant criteria fully but still give rise to concerns about the risk an individual poses to children through their work or volunteering. **In these cases advice should be sought from the local authority’s Designated Officer** (‘the LADO’) without delay and they will advise the most appropriate course of action.

The guidance applies to allegations of abuse made against an adult in a position of trust whether **contemporary, historical or both**. It is the risk of current and future harm to children posed by the person under investigation that should be evaluated and managed.

It is essential that any allegation is dealt with quickly, in a fair and consistent way that provides effective protection for the child/children and at the same time supports the person who is the subject of the allegation.

6.1.2. Application of these Provisions

This chapter applies to any situation where allegations are made that might impact on the risk posed by someone who works with children. Thus the trigger allegation may relate to an issue with the person’s own child or an unrelated child, or it may relate to criminal activity such as downloading indecent images of children. The key is to consider whether the behaviour, if found to be true, might give rise to concerns about the safety of a child or children.

This chapter also applies to anybody who works with, volunteers to work with or fosters children or has access through their employment to information about children and who:

- **As a result of their personal relationship with a child, or an alleged or known perpetrator, may pose a risk of harm to children or,**

- May be in a position to influence the investigation of an allegation.

6.1.3. Definitions

All agencies specified in Section 11 of the Children Act 2004¹, should appoint a senior manager to be the **Named Senior Officer** to have strategic responsibility for the implementation and operation of this guidance within their agency and to liaise with the LADO and the WSCB to address any inter-agency issues.

Working Together 2015 requires the County Council to have one or more **LADO's** to be involved in the management and oversight of individual cases.²

All S11 agencies as well as employers and voluntary groups providing a service to children (or supplying staff or volunteers to work with children) ("the Employer"), must identify a **Named Senior Manager** (the "NSM") to have operational responsibility for this guidance. This is the person to whom allegations or concerns of this nature should be reported. The Employer must ensure that all staff and volunteers know who the Named Senior Manager is and must identify an alternative person to whom concerns should be referred to if that individual is absent or is the subject of the concerns.

The Named Senior Officer may also be the Named Senior Manager.

The LADO will provide advice and guidance to Employers and will liaise with the Police and other agencies; monitoring the progress of cases to ensure that they are dealt with as quickly as possible, consistent with a thorough and fair process.

6.1.4. Classifying Outcomes

The following definitions should be used when determining the outcome of allegation investigations:

- Substantiated:** there is sufficient evidence to prove the allegation;
- Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive;
- False:** there is sufficient evidence to disprove the allegation;

¹ **local authorities and district councils that provide children's and other types of services**, including children's and adult social care services, public health, housing, sport, culture and leisure services, licensing authorities and youth services; NHS organisations, including the NHS Commissioning Board and clinical commissioning groups, NHS Trusts and NHS Foundation Trusts; the police, including police and crime commissioners and the chief officer of each police force in England and the Mayor's Office for Policing and Crime in London; the British Transport Police; the Probation Service; Governors/Directors of Prisons and Young Offender Institutions; Directors of Secure Training Centres; and Youth Offending Teams/Services.

² Working Together to Safeguard Children 2015 Chapter 2.5

d. **Unsubstantiated**: there is insufficient evidence either to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.³

6.1.5. Cross-border Circumstances

In all such circumstances, the LADO and agency managers should refer to the local protocol: '[*Management of allegations against people who work with children & young people where there are cross-border issues*](#)' (May 2013)

Delays in agreeing which LADO should take the lead must not be allowed to cause delay in undertaking Section 47 investigations or facilitating multi-agency Strategy Meetings.

Where there are cross-border issues negotiations will take place between the respective LADO's to reach a decision about who takes the lead role on behalf of all the agencies involved. Generally speaking:

- the Local Authority for the area in which the individual is employed (to work with children) should take responsibility for the co-ordination of the strands of the investigation
- if the subject of a concern or allegation is self-employed (for example foster carers), the Local Authority in which the individual normally resides will take responsibility for co-ordination.

6.1.6. Initial Response and Considerations

The person identifying the concerns must report these to the NSM **immediately**. The employer's response must be based on this guidance rather than dealt with as a complaint or any other form of representation.

The NSM must, within **one working day**, inform the LADO of any allegation appearing to meet the Relevant Criteria. If the Police or Children's Social Care receives a referral that appears to meet the Relevant Criteria directly they must inform the LADO within one working day. In which case, the LADO will discuss the allegation with the NSM.

The LADO and NSM will consider the detail and context of the allegation and agree a course of action. The LADO may ask the NSM to provide or obtain relevant additional information, such as previous history and the nature and extent of the individual's current contact with children.

If the allegation relates to something that **happened in the past**, it is vital to establish if the individual is still working with children. If so, their current employer/voluntary organisation should be included in any Strategy Discussion/Meeting.

³ Keeping Children Safe in Education 2015
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/435939/Keeping_children_safe_in_education.pdf

If the person is deemed to be an **immediate risk to children** or there is evidence of a criminal offence the NSM and LADO should determine whether immediate Police and/or Children's Social Care involvement is necessary.

If the NSM and LADO, at this **initial evaluation**, decide no further action is to be taken this decision and the reasons for it must be recorded by both. In which case, with the agreement of the LADO, the NSM will usually inform the accused person about the allegation, providing the individual with as much information as possible at the time.

OFSTED must be informed of any allegation made against a member of staff in any day care or residential establishment, a registered child minder or a registered foster carer. This will usually be the responsibility of the Employer but where there is no Employer or the LADO agrees it may be the LADO.

Where the LADO identifies that the concern/allegation may meet one or more of the Relevant Criteria, a Strategy Discussion involving the Police, Children's Social Care, the NSM and the LADO will consider whether or not a **Position of Trust Strategy Meeting** should be called.

Employers must consider carefully and keep under review, whether the circumstances of a case warrant a person being **suspended** from contact with children or whether alternative arrangements can be put in place until the allegation or concern is resolved. All options to avoid suspension should be considered prior to taking that step (please refer to 'Suspension' below).

Those undertaking enquiries need to be **alert to any sign or pattern that suggests that abuse may be more widespread or organised** than it appears at first sight, or that involves other perpetrators or institutions. Issues to consider will include whether there have been other concerns/allegations in the same setting or at other settings that the individual has worked, or volunteered, in previously.

6.1.7 Convening a Position of Trust Strategy Meeting

If the Strategy Discussion concludes that there is a risk of harm as defined by the relevant criteria and that the matter warrants multi-agency consideration, a Position of Trust Strategy Meeting (a "POT") should be convened by Children's Social Care.

Where there is a lack of consensus about the need for a POT, a meeting should be held. A POT may be necessary in addition to a child protection response to a risk posed to children connected to the individual otherwise than by his or her work. So there may be more than one response running concurrently.

When a decision is made to convene a POT, the NSM should not inform the accused person about the allegation until it has been agreed by all agencies what information can be disclosed.

When convening the POT meeting, all invitees will be told that the meeting is being called in accordance with this chapter. The LADO will always be invited and the meeting will be chaired by the Operations Manager. The Operations Manager should consider inviting the following people in addition to the usual strategy meeting invitees: the Employer's NSM, the Employer's Human Resources adviser, the Local Authority child protection legal adviser and, where relevant, a representative from Ofsted. Where the allegation relates to a foster carer or their household, the fostering social worker should be invited.

Invitees should be given enough information and guidance to ensure that they bring relevant information from their agency to promote an effective discussion.

6.1.8 The role of the Position of Trust Strategy Meeting

The POT should ascertain the level of risk to children that is presented by the individual as a result of his or her position and draw up a plan identifying the action required to remove or minimise that risk. The meeting may identify further information that is required, to inform decisions, in which case interim protective measures should be agreed and the meeting reconvened on a new date.

The minutes of each meeting should be recorded using the 'Position of Trust Strategy Meeting' pro forma on the Children's Social Care electronic recording system. The agreed actions should be recorded and circulated at the end of the meeting.

Agency and LSCB policies that are relevant to the evaluation of the circumstances must be considered at every stage (eg policies relating to the use of safe handling).

Where the POT concludes that an investigation by the Police or Children's Social Care is unnecessary the POT will discuss the next steps and the LADO will provide advice. The Employer's options depend on the nature and circumstances of the allegation and the evidence available and range from no further action to dismissal (or a decision not to use the person's services in future). The employer may need to undertake further investigations to inform this decision. Any such investigation should be managed by someone independent of the subject individual's line management. [DfE Keeping Children Safe in Education Statutory Guidance July 2015](#)

6.1.9 Information sharing between agencies

In the Strategy Discussion or POT, the agencies involved should share all relevant information they have about the person who is the subject of the allegation and about the alleged victim.

Employers/managers are asked to note that they should take all available information about the employee/volunteer/foster carer with them to POT meetings to assist the risk assessment process.

Agencies should seek consents from the individuals concerned to share relevant information with the Employer for use in any disciplinary process. This will enable them to share information without delay at the appropriate time.

6.1.10 Suspension of individual

Where there is reason to suspect a child or children in the establishment is/are at risk of significant harm the NSM must, in consultation with their HR adviser and the LADO, consider carefully whether the circumstances warrant removing the individual from contact with children until the allegation is resolved.

If so then the NSM should consider how this can be achieved and alternatives to suspension must be considered. The LADO should canvass the views of the Police and Children's Social Care in order to inform the Employer's decision. The NSM should consider all options to avoid the individual's suspension. Suspension, and any alternatives to it, should be based on assessment of risk and should be kept under review as the enquiries/investigations progress and circumstances change. Suspension can lead to permanent professional reputational damage to employees where an allegation is later found to be unsubstantiated, unfounded or maliciously intended and therefore must not be taken lightly.

If suspension is considered necessary, the rationale and justification for such a course of action should be agreed and recorded by both the NSM and the LADO. This should also include what alternatives to suspension have been considered and why they were rejected. Written confirmation should be dispatched within one working day of the decision, providing as much detail as appropriate for the reasons for the suspension and including details of a named contact for the individual within the organisation.

It is the Employer's (or agency for whom an individual volunteers) decision whether or not to suspend and it should be kept under review throughout.

6.1.11 Supporting those involved

In cases where a child may have suffered harm, or there may be a criminal prosecution, Children's Social Care, or the Police as appropriate, should consider what support the **child or children** involved may need.

Employers should have policies in place which set out the support available to the person who is **the subject of the allegation** and should act to manage the impact upon them of the allegations process. Generally individuals should be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action, unless there is an objection by Children's Social Care or the Police.

The NSM should appoint a named representative to keep the individual informed of the progress of the case and consider what other support is appropriate for the individual. That may include support via occupational health or employee welfare arrangements.

Particular care should be taken when employees are suspended to ensure that they are kept informed of both the progress of their case and current work-related issues. Social contact with colleagues and friends should not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

Generally **parents or carers** of children involved should be told about the allegation as soon as possible. However, where there has been or will be a strategy discussion the NSM should wait until Police and Children's Social Care have been consulted and have agreed what information can be disclosed. Parent or carers should also be kept informed about the progress of the case, and told the outcome. The deliberations of a disciplinary hearing and the information taken into account in reaching a decision cannot normally be disclosed to third parties, but the parents or carers of the child should be told the outcome in confidence.

Parents and carers should also be made aware that reporting or publishing allegations about teachers prior to them being charged is prohibited under section 141F of the Education Act 2002⁴. If parents or carers wish to have reporting restrictions removed, they should be told to seek legal advice.

6.1.12 Confidentiality

Every effort must be made to maintain confidentiality and guard against publicity while an allegation is being investigated or considered. This will be one of the considerations for any Strategy Discussions or POT. In any event the NSM should take advice from the LADO, Police and Children's Social Care to agree the following:

- who needs to know and exactly what information can be shared;
- how to manage speculation, leaks and gossip;
- what, if any, information can be given to the wider community to reduce speculation; and
- how to manage press interest.

In accordance with ACPO guidance, the Police will not normally provide any information to the press or media that might identify an individual who is under investigation, unless and until the person is charged with a criminal offence. In

⁴ The Education Act 2011 which amends the 2002 Act prohibits the publication of any material that may lead to the identification of a teacher who has been accused by, or on behalf of, a pupil from the same school. The reporting restrictions apply until the point that the accused person is charged with an offence, or until the Secretary of State publishes information about an investigation or decision in a disciplinary case arising from the allegation. The reporting restrictions also cease to apply if the individual to whom the restrictions apply effectively waives their right to anonymity by going public themselves or by giving their written consent for another to do so or if a judge lifts restrictions in response to a request to do so.

"Publication" includes "any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public". Thus publishing details of the allegation on a social networking site would be caught by the reporting restrictions.

exceptional cases the Police may apply to a magistrates' court to request that reporting restrictions be lifted.

If there is any indication of actual, or potential, media attention the LADO and NSM will liaise with the agency's communication and publicity personnel. If the agency does not have communication and publicity personnel, they should contact the LADO who will consult the WCC Communications and Media team as necessary.

6.1.13 Timeliness

Cases should be resolved as quickly as possible consistent with a fair and thorough investigation.

For those cases where it is clear immediately that the allegation is unfounded or malicious, they should be resolved within one week.

In other cases, where at the initial evaluation the LADO and NSM conclude that there has been no criminal offence and there are no concerns about child protection, and the Employer feels that the matter does not require formal disciplinary action, they should institute appropriate action as quickly as possible. If a disciplinary hearing is required and can be held without further investigation, the hearing should be held within 15 working days.

The LADO will monitor the progress of cases to ensure that they are dealt with as quickly as possible consistent with a thorough and fair process. Reviews should be conducted at regular intervals, depending on the complexity of the case.

6.1.14 Oversight and Monitoring

The LADO has overall responsibility for oversight of the procedures for dealing with allegations; for resolving any inter-agency issues; and for liaison with the Local Safeguarding Children Board (LSCB).

In each case the Police will also identify an officer who will be responsible for: liaising with the LADO; contributing to any initial evaluation or Strategy Discussion; reviewing progress where there is a Police investigation; and sharing information on completion of the investigation or prosecution.

If a Police investigation is required, the Police should also set a target date for reviewing the progress of the investigation and consulting the Crown Prosecution Service (CPS) about whether to: charge the individual; continue to investigate; or close the investigation. Wherever possible, that review should take place no later than four weeks after the initial evaluation. Dates for subsequent reviews, ideally at fortnightly intervals, should be set at the meeting if the investigation continues.

6.1.15 Action following an investigation and the conclusion of the POT process

The Police or the CPS should inform the employer and LADO immediately:

- a criminal investigation and any subsequent trial is complete

- it is decided to close an investigation without charge, or
- it is decided not to continue to prosecute the case after a person has been charged.

The LADO should discuss with the NSM whether any further action, including disciplinary action, is appropriate and, if so, how to proceed. The information provided by the Police and/or Children's Social Care should inform that decision. Their consideration will need to take into account the outcome of the Police investigation and the different standard of proof required in criminal proceedings.

6.1.16 Action on Conclusion of a Case

Where a POT Meeting has been held, the LADO should discuss with Children's Social Care, Police and NSM the need to convene a concluding Review POT Strategy Meeting at the completion of enquiries, in order to ensure outcomes are clear, agreed and communicated to all parties.

At the conclusion of a case in which an allegation is substantiated, the LADO should review the circumstances of the case with the NSO 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 or to improve the agency's response to future allegations.

If an allegation is determined to be unfounded or malicious, the LADO should consider the need to 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.

6.1.17 Referral to DBS [*DBS referrals: form and guidance*](#)

There is a **legal requirement on Employers (including fostering services) to make a referral to the DBS** where they think that an individual has engaged in conduct (including inappropriate sexual conduct) that harmed (or is likely to harm) a child; or if a person otherwise poses a risk of harm to a child. The duty to refer an individual to the DBS arises where an employer has removed the individual from relevant work with children or the person has chosen to cease relevant work in circumstances where they would have been removed had they not done so. Referrals should be made as soon as possible after the resignation or removal of the member of staff involved and within one month of ceasing to use the person's services.

Where **an individual is not employed** or working/volunteering on behalf on an agency but engages in regulated activities with children (eg a self-employed music teacher or dance instructor) the POT meeting should consider exercising the power to refer them to the DBS where the individual poses a risk to children. Where the POT meeting agrees that this is appropriate the LADO will make the referral taking into account the Data Protection Principles when doing so.

Professional misconduct cases should be referred to the relevant regulatory body by the Employer.

6.1.18 Resignations and ‘settlement agreements’

If a person who is the subject of an allegation resigns, or ceases to provide their services, this should not prevent an allegation being followed up in accordance with this guidance.

Every effort should be made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children, including any in which the person concerned refuses to co-operate with the process.

Wherever possible, the accused should be given a full opportunity to answer the allegation. The process of investigating and reaching a judgement about it should continue with or without the cooperation of the accused. This may be difficult, and it may not be possible to apply any disciplinary sanctions, but it is important to reach and record a conclusion about the outcome of the allegation investigation. The individual should be advised that this will happen notwithstanding their resignation or lack of cooperation.

‘Settlement 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 these cases. Such an agreement will not prevent a thorough Police investigation where that is appropriate. Nor does it override the statutory duty to make a referral to the Disclosure and Barring Service where circumstances require that.

6.1.19 References

Cases in which an allegation proved to be false or malicious should not be included in employer references. In cases where an allegation is proved to be unsubstantiated or unfounded employers should seek their own legal advice before including the information in a reference.

6.1.20 Record Keeping

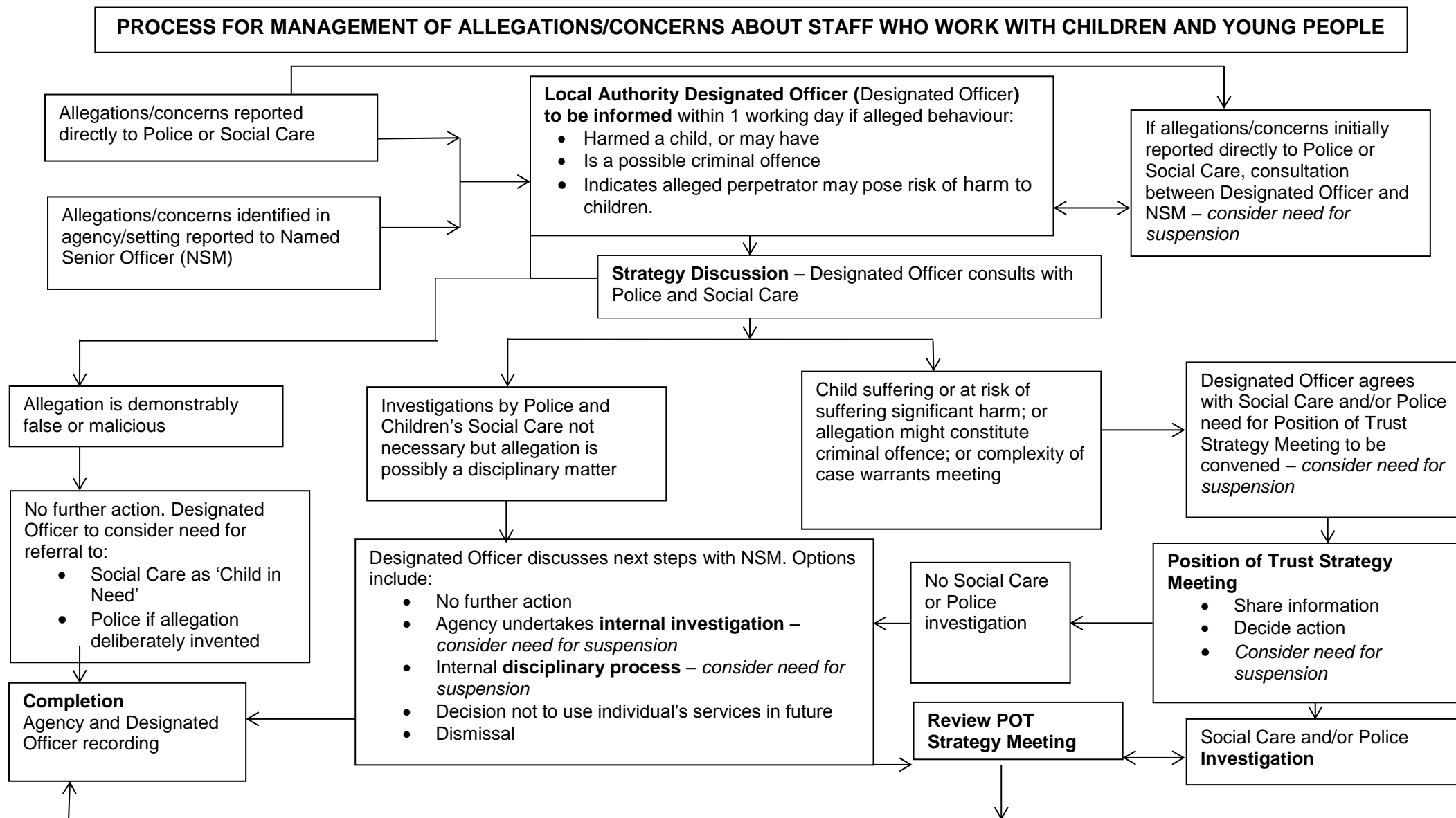
Details of allegations that are found to have been malicious should be removed from Human Resources records.

The records for all other categories of allegations should be maintained on the HR file of the accused (including a foster carer’s case file), including: a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached. A copy should be provided to the individual concerned.

The record enables accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where future DBS Disclosures reveal information about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation if an allegation re-surfaces later.

The **record should be retained** at least until the accused has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer. For foster carers relevant statutory guidance in relation to the retention of records must be followed.

The **Information Commissioner** has published guidance on employment records in its Employment Practices Code and supplementary guidance.



6.2 INVESTIGATING COMPLEX ABUSE

6.2.1 The response

Complex abuse may be defined as **abuse involving one or more abuser and a number of related or non-related** children and young people. The abusers concerned may be acting in concert to abuse children, sometimes acting in isolation, or may be using an institutional framework or position of authority to recruit children for abuse. The allegations may relate to contemporary or historical abuse.

Such abuse is profoundly traumatic for the children involved. Its investigation is time-consuming and demanding work requiring special skills from both Police and Children's Social Care staff. Some investigations become extremely complex because of the number of places and people involved, and the timescale over which abuse is alleged to have occurred.

Each investigation of complex abuse will be different, according to the characteristics of each situation and the scale and complexity of the investigation.

Once information of an alleged/potential case of complex abuse comes to light, this must be reported immediately to either the Children's Social Care Head of Service or the Inspector of the Public Protection Unit of the Police and LADO without any further preliminary enquiries by the agency receiving the information. Each complex abuse case requires thorough planning, good inter-agency working and attention to the welfare needs of the child-victims or adult survivors involved. The guidance - Complex child abuse investigation: Inter-agency Issues (Home Office and Department of Health, 2002) should be followed.⁵

At the onset it will be necessary to agree a plan for the enquiries at a Strategy Meeting chaired by a Service Manager, who will detail the roles and tasks of each agency within the process. This may include senior managers from all involved agencies at a strategic level to ensure that the appropriate resources are deployed and staff members are supported. In particular strategies for responding to political and media issues arising from the enquiry should be agreed.

The plan should ensure that enquiries are carried out by persons with the appropriate degree of independence and objectivity, that records are safely and securely stored and that there is access to expert legal advice. Consideration should be given to inviting the local authority legal adviser to the Strategy Meeting. The plan should also consider whether there are any children or other victims involved who need active safeguarding and/or therapeutic help, and how this should be achieved in a way which is consistent with the conduct of criminal investigations.

⁵ http://www.workingtogetheronline.co.uk/documents/Complex_abu.pdf

There should be arrangements in place to provide care and support to the investigation team where appropriate.

There should be regular, minuted Strategy Meetings and reviews to consider the conduct of the investigation, next steps and the effectiveness of joint working.

At the close of the investigation consideration should be given to identifying any lessons for conducting similar investigations in the future.

At the conclusion of any organised abuse enquiries, **the LADO and the Police should provide a report for the LSCB if requested** which outlines the progress of enquiries and identifies any lessons learned of inter-agency or procedural interest to the LSCB.

6.2.2 Historical Cases

In recent years there have been a number of widely reported cases of historical abuse. Such cases have generally come to light after adults have reported abuse that they have experienced when children, while living away from home in settings provided by Local Authorities, the voluntary sector or independent providers. When such allegations are made, they **should be responded to in the same way as contemporary concerns**.

6.3 Glossary of Terms

- ***People who work with Children/Adults in a Position of Trust*** - In this context, 'people who work with children' are deemed to include paid staff members, volunteers, foster carers and students on work placements in settings which mean that they have contact with children. If there is any doubt about whether a concern or allegation falls within the scope of this guidance please discuss this with the NSM within your organisation, who can discuss this with the LADO if further advice is required.
- ***Agency*** - In the context of this guidance the term agency covers all organisations both statutory and non-statutory. It also refers to individual institutions, eg schools, youth clubs, day nurseries, play centres, extended school provision etc.
- ***Employer*** - In the context of this guidance the term "employer" includes school governors, and the proprietor/provider of private companies/institutions and voluntary organisations that provide services to children, in addition to partner agencies of the Safeguarding Children Board; irrespective of whether the work is undertaken by paid staff members or volunteers. In respect of foster carers it means the agency with which they are registered. Unless stated otherwise this includes fostering agencies in the case of allegations against foster carers.
- ***LADO*** - This refers to Warwickshire County Council's Designated Officer who is responsible for offering advice and guidance to all agencies about how to respond to concerns about people that work with children. The LADO will monitor timescales for resolving any such concerns. This information will be reported back to the WSCB, who will use it as one measure of the effectiveness of this guidance.
- ***Named Senior Officer (NSO)*** - All agencies specified in Section 11 of the Children Act 2004, schools, further education providers, early years providers, voluntary and private providers of services involving contact with children, UK Border Agency, CAFCASS and the Armed Services are required to have a Named Senior Officer. This person is responsible for ensuring that guidance and practice within their agencies is consistent with the inter-agency guidance.
- ***Named Senior Manager (NSM)*** - The Named Senior Manager is the person to whom all allegations should be reported within an agency. In schools, colleges and early years settings, the NSM would ordinarily be the Head teacher, Principal or officer in charge.

The Named Senior Manager may act as the Named Senior Officer as long as that is clear to all members of staff / volunteers.