

**Allegations of Abuse  
made against  
Staff who work with  
Children**

<b>School/Academy:</b>	
<b>Date adopted by Governing Body:</b>	
<b>Signed (Chair):</b>	
<b>Signed (Headteacher):</b>	

<b>Produced by:</b>	Human Resources & Organisational Development Services, Resources Directorate
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<b>July 2017</b>	<b>Complete review</b>
<b>August 2018</b>	<b>Update on Disqualification Regs 2018 and GDPR wording</b>

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## **General Introduction**

### **1. Application of the Procedure**

This procedure applies to all teaching and support staff in schools, academies (including those seconded to other schools or organisations or governor led) and maintained nurseries, in which the governing body has adopted them for use.

In adopting the procedure, the governing bodies of Community and Voluntary Controlled Schools acknowledge that the Local Authority is the employer whilst the governing bodies of Voluntary Aided and Foundation Schools acknowledge that their governing body is the employer. For academies the employer is the board of directors.

An employee working within a school / academy but employed on another organisation's terms and conditions of employment should have any disciplinary matter managed under the appropriate policy/procedure.

Where the term "school" is used in this procedure, this also means "academy" where an academy has adopted the procedure.

### **2. Purpose**

Wigan Council, in liaison with the schools, has responsibility for ensuring there are effective inter agency procedures in place for dealing with allegations against people who work with children and for monitoring and evaluating the effectiveness of those procedures.

This part of the procedure is about managing cases of allegations that might indicate a person would pose a risk of harm if they continue to work in regular or close contact with children in their present position, or in any capacity. It should be used in respect of all cases in which it is alleged that a teacher or member of staff (including volunteers) in a setting that provides education for children under 18 years of age 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.

This procedure relates to members of staff who are currently working in any school or college (under the support of Wigan Council) regardless of whether the school or college is where the alleged abuse took place. Allegations against a teacher who is no longer teaching should be referred to the police.

All adults who come into contact with children have a responsibility to safeguard and promote their welfare. They are also vulnerable to the potential for false, malicious or misplaced allegations being made, either deliberately or innocently, arising from normal and proper association and conduct. However, it is regrettably the case that some adults/professionals have been found to be perpetrators of child abuse and/or

for behaving in ways which have harmed children and which indicates that they are unsuited to working with them.

Employers also have a duty of care towards their employees/volunteers and must take account of this at a number of levels through the provision of appropriate induction/training, through the provision of clear guidance on codes of conduct and relevant disciplinary procedures, alongside those for managing allegations.

If the allegation meets any of the criteria in Section 2, the School Safeguarding Lead and/or Headteacher **must** refer the matter to the LADO within 24 hours of being notified of the allegation. See Section 3 of 'Initial Considerations & Actions' for details of the procedure.

### **3. Confidentiality**

The Designated Officer should take advice from the LADO, police and children's social care services to agree the following:

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

### **4. Whistleblowing**

Whistleblowing occurs when an employee provides certain types of information, usually to the employer or a professional body, which has come to their attention through work. Whistleblowing is 'making a disclosure in the public interest' and occurs when an employee raises a concern about danger or illegality that affects others.

The disclosure may be about the alleged wrongful conduct of their employer, a colleague, or any third party. Typically, the whistleblower is not directly, personally affected by the danger or illegality, although they may be. Personal complaints such as harassment, discrimination or breaches of their own employment contract, are not usually treated as whistleblowing and should be handled according to the School's Grievance policy.

These concerns should be handled in conjunction with the School's Whistleblowing policy.

## 5. Local Authority Designation Officer (LADO)

The LADO captures concerns, allegations or offences arising from outside of work, as well as in the workplace. Any professional, parent, volunteer, voluntary sector, police, regulatory body can refer to LADO. The LADO is involved from the initial phase of the allegation through to the conclusion of the case. They will provide advice, guidance and help to determine whether the allegation sits within the scope of the procedures.

The LADO helps co-ordinate information sharing with the right people and will also monitor and track any investigation, with the aim to resolve it as quickly as possible. Where allegations are made against adults who work with children, it is the Police and Children's Team who initially investigate alleged or suspected abuse or possible criminal behaviour. Once either of those agencies indicates they will not be conducting an investigation, the LADO will discuss next steps with the Schools Safeguarding Lead and/or Headteacher in the organisation.

The LADO can be contacted on the following details:

- Telephone: 01942 486042 (internal 86042) or 01942 486034 (internal 86034)
- Out of normal office hours: 01942 828300
- Email: [lado@wigan.gov.uk](mailto:lado@wigan.gov.uk)

Employers may also seek the advice of the LADO where an employee's behaviour is a matter for concern because it compromises or may be seen to compromise the reputation and ability of the organisation to safeguard children and young people.

Some examples of this may be where an individual has:

- Contravened or has continued to contravene any safe practice guidance given by his/her organisation or regulatory body;
- Exploited or abused a position of power;
- Acted in an irresponsible manner which any reasonable person would find alarming or questionable given the nature of work undertaken;
- Demonstrated a failure to understand or appreciate how his or her own actions or those of others could adversely impact upon the safety and wellbeing of a child;
- Demonstrated an inability to make sound professional judgements which safeguard the welfare of children;
- Failed to follow adequately policy or procedures relating to safeguarding and promoting the welfare of children;
- Failed to understand or recognise the need for clear personal and professional boundaries in his or her work;
- Behaved in a way in her or her personal life which could put children at risk of harm;
- Become the subject of criminal proceedings not relating to a child;

- Become subject to enquiries under local child protection procedures and/or child subject to Child Protection Plan;
- Behaved in a way which seriously undermines the trust and confidence placed in him or her by the employer.

## **6. Disqualification under the Childcare Act**

The criteria for disqualification from employment is included under the Childcare Act 2006 and the Childcare (Disqualification) and Childcare (Early Years Provision Free of Charge) (Extended Entitlement) (Amendment) Regulations 2018

Staff are covered by this legislation if they are employed and/or provide early years childcare (this covers the age range from birth until 1 September following a child's fifth birthday i.e. up to and including reception age) within or outside normal school hours, or later years childcare (this covers children above reception age but who have not attained the age of 8) outside normal school hours (eg breakfast or after school clubs) in nursery, primary or secondary school settings, or if they are directly concerned with the management of such childcare. Further details of the criteria can be found [here](#).

Employees have a responsibility to inform their manager of any criminal convictions that occur during their employment. Failure to do this may result in disciplinary action being taken. Guidance and requirements for Childcare Disqualification Regulations can be found in the Employment Handbook for Schools on the intranet.

Advice must be sought from HR before taking further action, as the above may constitute SOSR (Some Other Substantial Reason) under employment law proceedings.

## **Responding to an allegation**

### **1. Person receiving details of the allegation:**

There are a number of sources from which a complaint or an allegation might arise including from:

- A child or a parent
- An adult / colleague
- A member of the public
- A professional body

The person to whom an allegation or concern is reported should not question the child or investigate the matter further. They should ascertain basic information including:

- When the alleged incident took place (time and date)
- Who was present
- What was said to have happened
- Sign and date the written record

This person should:

- Treat the matter seriously
- Communicate with the child (if the complainant) in a way that is appropriate to the child's age, understanding and preferred language or communication style
- Make a written record of the information (where possible in the child's own words)
- Report the matter to the School Safeguarding Lead and/or Headteacher instead of undertaking any further investigation in addition to the above

The School Safeguarding Lead and/or Headteacher will determine who will become the 'Designated Officer' of the allegations.

Where the School Safeguarding Lead and/or Headteacher are the subject of the allegation, the person should report the matter to the Chair of Governors.

## **2. Initial actions to be taken by Designated Officer:**

The procedures for dealing with allegations need to be applied with common sense and judgement. Many cases may well either not meet the criteria set out in the 'Purpose' section of this procedure, or may do so without warranting consideration of either a police investigation or enquiries by local authority children's social care services. In these cases, LADO must be contacted in the first instance to ascertain what internal procedures need to take place. The Designated Officer **must not** investigate the matter by interviewing the accused person, any child(ren) or potential witnesses.

The purpose of an initial discussion is for the LADO and the Designated Officer to consider the nature, content and context of the allegation and agree a course of action. The LADO may ask the Designated Officer to provide or obtain relevant additional information, such as previous history, whether the child or their family have made similar allegations previously and the individual's current contact with children.

The School Safeguarding Lead and/or Headteacher will liaise with the child(ren)'s parent(s) / carers to obtain information for the investigation. The School Safeguarding Lead and/or Headteacher **must**:

- Obtain written details of the allegation, signed and dated, from the original recipient;
- Employee background information available to them i.e.
  - what else is known about any of the individuals implicated;
  - length of service,
  - specific role within the organisation,
  - previous/current level of contact with the child(ren) involved,
  - details of any relevant plans pertaining to the child(ren) implicated (e.g. behaviour management plan),
  - whether there have been any previous relevant concerns/allegations/disciplinary issues:



- Whether the subject of the allegation has any children of their own or children who reside at their home address:
- Check to see whether any contemporaneous records exist which might relate to the alleged incident. (For example, care and control/behaviour records):
- Counter sign and date an updated record of discussions and decisions for safeguarding records.

Consideration must be given at the beginning of enquiries to gaining consent from those involved to use the statements obtained and information gathered in disciplinary proceedings. This will enable information sharing to take place at the earliest opportunity.

Discussions about suspension/change of duties (that do not include contact with children) may take place and while other professionals may wish to express a view, the decision to suspend/change duties rests ultimately with the employer. This decision should be in accordance with the definitions outlined in the 'Purpose' section of this document, along with each organisation's own policies. Advice should also be sought from HR before proceeding.

If the allegation meets any of the definitions outlined in the 'Purpose' section of this document, the School Safeguarding Lead and/or Headteacher **must** refer the matter to the LADO within 24 hours of being notified of the allegation. Referral however should not be delayed in order to gather information.

There may be situations when the School Safeguarding Lead and/or Headteacher will want to involve the police immediately, for example if the person is deemed to be an immediate risk to children or there is evidence of a possible criminal offence. Where there is no such evidence, the School Safeguarding Lead and/or Headteacher should discuss the allegations with the LADO in order to help determine whether police involvement is necessary.

### **3. Referral to the Local Authority Designation Officer (LADO)**

If an allegation arises against an employee, volunteer, or a professional working or providing services to children you must contact the Schools Safeguarding Lead/Headteacher at the earliest opportunity. Failure to do this could put children and young people at risk of harm. The Designated Officer should inform the LADO within 24 hours. If there are a number of professionals involved; it is recommended that the key professional involved with the child may be best placed to refer. If you are not sure if the situation meets the threshold contact LADO for an informal discussion.

The LADO process can be described in 6 stages and in the flowchart in appendix A:

1. You become aware of a risk to a child from an employee, volunteer, or professional in your employ. You report your concerns to your School Safeguarding Lead and/or Headteacher at the earliest opportunity, who will then liaise with LADO. Every organisation should have a School Safeguarding Lead and/or Headteacher who deals with Safeguarding issues

2. LADO will work with the School Safeguarding Lead and/or Headteacher to decide; who the case needs to be referred to; if an Initial Strategy Meeting (ISM) is needed to discuss safeguarding issues; to ensure HR are aware and can offer appropriate advice and; what immediate action needs to be taken to make a child or children safe
3. LADO will consult wherever appropriate, with the police, children's social care team and the Headteacher (if this is a different person from the referrer)
4. Following the initial discussions the LADO will either arrange an ISM or record the case as advice given or no further action required
5. The ISM brings together information and evidence to plan the investigation. This is a multi-agency meeting that will decide if there is a criminal offence that needs to be investigated by the police, whether a child is in need of protection or services, and if an employer needs to consider disciplinary action against the individual
6. The LADO co-ordinates the investigations and reviews the actions as necessary. They record all the information and actions ensuring where necessary that individuals are reported to regulatory bodies.

#### **4. Responding to an allegation made to the Police or Social Care Teams**

If the Police or Social Care receives an allegation of this nature, they should report it without delay to the School Safeguarding Lead and/or Headteacher, who should inform the LADO immediately (or ensure that the LADO is informed the next working day if the allegation is received out of hours)

The LADO will notify the School Safeguarding Lead and/or Headteacher of any notifications made directly to the Police or Social Care, of which the organisation may not otherwise be aware.

#### **5. Responding to an allegation made to the School**

Where an allegation is made to a person working in the school, the matter must be reported immediately to the School Safeguarding Lead and/or Headteacher. Where the Headteacher is the subject of the allegation, the allegation should be reported to the Chair of Governors of the school without delay and LADO informed.

#### **6. Responding to an allegation made to a Regulatory Body**

The School Safeguarding Lead and/or Headteacher and LADO must consider the nature, content, and context of the allegation and agree a course of action together.

They must therefore:

- Establish that the complaint/allegation is within the scope of the ‘Purpose’ section of this procedure
- Verify whether there is evidence or information that establishes that the allegation is false or unfounded
- Consider whether further details or investigations into the allegations are needed (i.e. such as previous history, whether child/family have made similar allegations, and current contact with children)

Once the above has been established, the discussion will then focus on agreeing a course of action. This can include; deciding whether the information meets agreed thresholds to hold a strategy meeting under child protection procedures; and/or a LADO allegations management meeting, or no further action.

## **7. Suspension**

The possible risk of harm to children posed by an accused person should be evaluated and managed in respect of the child(ren) involved in the allegations. In some cases that will require the Designated Officer to consider suspending the accused until the case is resolved.

Suspension should be considered only in a case where there is cause to suspect a child or other children at the school are at risk of harm or the case is so serious that it might be grounds for dismissal. Suspension should not be an automatic response when an allegation is reported; all options to avoid suspension should be considered prior to taking that step. If the Designated Officer is concerned about the welfare of other children in the community or the teacher’s family, those concerns should be reported to the LADO or police.

Advice should be sought from HR prior to suspending.

## **8. Alternatives to Suspension**

The Designated Officer should consider whether the result that would be achieved by immediate suspension could be obtained by alternative arrangements. In many cases an investigation can be resolved quickly and without the need for suspension. If the LADO, police and children’s social care services have no objections to the member of staff continuing to work during the investigation, the Designated Officer should be as inventive as possible to avoid suspension. Based on assessment of risk, the following alternatives should be considered by the Designated Officer before suspending a member of staff:

- Redeployment within the school so that the individual does not have direct contact with children, including the child or children concerned;
- Providing an assistant to be present when the individual has contact with children;
- Temporarily redeploying the member of staff to another role in a different location, where the schools is part of a federation or multi academy trust
- Placing the employee on alternative duties

Please seek advice from HR prior to implementing alternatives to suspension.

## **9. Initial Strategy Meeting (ISM)**

If there is cause to suspect that a child is suffering or is likely to suffer significant harm (see 'Purpose' section of these procedures), the LADO should immediately refer to children's Social Care and ask them to initiate a strategy discussion straight away. The LADO will determine whether the circumstances require an ISM.

A strategy discussion or initial evaluation can be conducted by way of a series of telephone calls, but it should take the form of a face-to-face meeting with a dedicated minute taker wherever practicable.

The LADO has 3-5 working days to convene a meeting and where a LADO strategy meeting is appropriate, the LADO will arrange the initial meeting to include the employer (as defined at the beginning of this procedure), HR and relevant multi-agency partners. In the case of an initial evaluation discussion, children's Social Care need only take part if they are involved with the child or have a contribution to make.

If the allegation is about physical contact, the ISM or initial evaluation should take account of any entitlement by staff in certain professions to use reasonable force to control or restrain children in certain circumstances e.g. Section 550A Education Act 1996 in respect of teachers and authorised school staff.

The LADO will regularly monitor the progress of cases by conducting Initial Action Reviews or by liaising directly with the school, the Police and/or children's social care.

Subsequent reviews or evaluation discussions will be held at the end of the enquiries to ensure that all tasks have been completed and, where appropriate, to agree an action plan from lessons learnt that may inform future practice.

## **10. Disciplinary**

The discussions which take place during the ISM will determine whether the matters need to be taken forward for consideration within disciplinary processes. This agreement will be reached between parties after consideration of HR advice. The LADO will share this decision with the Headteacher and/or Chair of Governors or chair of the Board of Directors for academies.

The initial sharing of information and evaluation however may lead to a decision that no further action is to be taken in regard to the individual facing the allegation or concern, and the manager will then decide how best to proceed within their School, taking the above into consideration. Advice should be sought from HR when considering implementing internal procedures such as disciplinary processes.

If the nature of the allegation does not require formal disciplinary action, the employer should institute appropriate action.

If the Police are involved with the matter however, they will advise on when internal investigations can take place, such as disciplinary investigations.

## 11. Monitoring progress

The LADO should monitor and record the progress of each case, either fortnightly or monthly depending on its complexity. This could be by way of review strategy meetings / discussions / getting an update from case notes / initial evaluations or direct liaison with the Police, Children's Social Care, or employer, as appropriate. Where the target timescales cannot be met, the LADO should record the reasons.

The LADO should keep comprehensive records in order to ensure that each case is being dealt with expeditiously and that there are no undue delays.

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

## 12. Record keeping

The School will keep a clear and comprehensive summary of the case record where the allegation is made against an employee as it is the responsibility of the employer to maintain their records.

The purpose of the record is to enable 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 checks reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation if, as sometimes happens, an allegation resurfaces after a period of time. The record should be retained at least until the accused has reached normal pension age or for a period of 10 years from the date of the allegation if that is longer.

The Information Commissioner has published guidance for organisations in respect of their obligations in respect of data under the General Data Protection Regulation, which provides some practical advice on record retention.

The record must also contain details of the category into which the allegation falls, as follows:

- **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;

- **Unsubstantiated:** there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.
- **Unfounded:** there is no evidence or proper basis which supports the allegation being made. It might also indicate 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.

Where the allegation or complaint is made within the public interest by the employee, the Whistleblowing Policy **must** be referred to.

### 13. Resignations and Settlement Agreements

The fact that a person tenders their resignation or ceases to provide their services must not prevent an allegation from being followed up in accordance with these procedures, and a conclusion reached.

A settlement agreement is where a person's employment ends by mutual agreement and they forfeit their rights to bring claims to an Employment Tribunal or court. In return the employer and employee both agree a form of words to be used in any future reference. In any event, such an agreement will not prevent a thorough police investigation where appropriate.

A settlement agreement **must not** be used in situations which are relevant to these procedures as this cannot override an employer's statutory duty to make a referral to the Independent Safeguarding Authority, DBS and/or TRA (Teaching Regulation Agency – formerly NCTL).

### 14. Referral to DBS and/or Regulatory Body

If the allegation is substantiated and on conclusion of the case the employer dismisses the person or 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 whether a referral to the Independent Safeguarding Authority and / or professional or regulatory body should be made.

If a referral is appropriate, the report should be made within **one month** but ideally immediately after the conclusion of the case. A referral should always be made if the employer thinks that the individual has harmed a child, or poses a risk of harm to children.

It is a legal requirement for employers to refer someone to the DBS if they:

- dismissed them because they harmed a child or adult
- dismissed them because they might have harmed a child or adult otherwise
- were planning to dismiss them for either of these reasons, but the person resigned first

Where the decision is taken not to refer, the rationale for this must be documented by the School.

It is important that full information about the behaviour of the person and how the judgement of the panel was informed is given to the Department. The referral form contained on the [website](#), together with attached notes of meetings and details gained from the disciplinary investigation, should be completed and sent to the DBS.

## **15. Support for those involved**

### **Employees**

Employers have a duty of care to their employees. They should act to manage and minimise the stress inherent in the allegations process. Support for the individual is vital to fulfilling this duty. 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 the children's social care services or the police. The individual should be advised to contact their trade union representative, if they have one, or a colleague for support. They should also be given access to EAP (if available as part of the School's SLA) or Occupational Health, where this is provided by the employer. In addition, the Education Support Partnership (formerly the Teachers Support Network) is available to support on a wide range of issues.

The Designated Officer should appoint a named representative to keep the person who is the subject of the allegation informed of the progress of the case and consider what other support is appropriate for the individual.

Particular care needs to 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. Employees should not discuss the matter with colleagues and/or friends (unless acting in the capacity as their companion in line with the School's disciplinary policy), as this could have a detrimental impact to the application of this procedure. If an employee breaches these terms, this may become a disciplinary matter in line with the disciplinary policy.

Where it is decided on the conclusion of a case that a person who has been suspended can return to work, the Designated Officer should consider how best to facilitate their return. Most people will benefit from some help and support to return to work after a stressful experience. Depending on the individual's circumstances, a phased return and/or the provision of a mentor to provide assistance and support in the short term may be appropriate.

The Designated Officer should consider how the person's contact with the child or children who made the allegation can best be managed if they are still a pupil at the school or academy. They should also consider any additional training or support which management or employees need in relation to Safeguarding procedures.

### **Parents or carers**

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 of it. However, where a strategy

discussion is required, or police or children's social care services need to be involved, the Designated Officer should not do so until those agencies have been consulted and have agreed what information can be disclosed to the parents or carers.

Parents or carers should receive limited information as to the outcome of any investigations or disciplinary proceedings, in line with internal policies and procedures, including employee confidentiality. Parents and carers can be advised that investigations have been concluded and that appropriate action (in line with internal procedures) has been taken (if applicable).

Parents and carers should also be made aware of the prohibition on reporting or publishing allegations about teachers. If parents or carers wish to apply to the court to have reporting restrictions removed, they should be told to seek legal advice.

## **16. Data Protection**

Where the Council provides HR support to schools, and in this connection may therefore hold personal information about staff in schools, the Council holds that information in accordance with the General Data Protection Regulation (GDPR).

The school also holds personal staff data in line with the GDPR, as set out in the Data Privacy Primary Notice and Recruitment and Employment Privacy Notice. Further information on GDPR is available from the school.

Where the sharing of information with other bodies/agencies referred to in this policy (such as the Police, Children's Social Care, the TRA, the DBS) is necessary, this will be in line with legal requirements relating to the bodies concerned and with the GDPR.



# Appendix A

## Managing Allegations Flowchart

