

# LADO Guidance Note 1

## Advice for Organisations

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### Responding to an allegation or concern

An allegation against a person working with children can be made by people in a range of different circumstances. Some allegations are made by children; some allegations are made by colleagues or other professionals; others are made by parents or members of the community. Everyone who receives information about an allegation should take it seriously and keep an open mind as to whether it might be true. The majority of allegations against professionals or volunteers relate to their behaviours towards a child or children in the workplace. However, some concerns reported to the LADO relate to the professional's or volunteer's personal life or to their care of their own children. Finally, in some cases, there may have been an allegation of abuse against someone closely associated with a member of staff and there are concerns may present a risk of harm to children for whom the member of staff is responsible.

In all cases, the general principles set out below apply:

#### The person receiving the report

##### Should:

Make sure children are safeguarded.

Write down what has been said and record the circumstances in which the allegation was made.

Report the matter to the lead person in agency or organisation.

##### Should not:

Ask leading questions if seeking clarification.

Make assumptions or offer alternative explanations.

Promise confidentiality but assurance should be given that the information will only be shared on a 'need to know' basis.

#### The lead person for safeguarding

##### Should:

Confirm children are safeguarded.

Obtain the written account which has been prepared by the person to whom the allegation was made.

Record details of potential witnesses.

Record the details of any discussions and the rationale for any decisions that have been made about the child/member of staff.

##### Should not:

Investigate the allegation.

Interview the child.

Interview the subject.

Interview potential witnesses.

**Refer to LADO within 1 working day of allegation being made.**

If an allegation requires immediate attention, but is received outside normal office hours, the designated manager should consult the Children's social care emergency duty team or local police and inform the LADO as soon as possible.

**The LADO and the lead person for safeguarding will:**

- Within one working day, have an evaluation discussion. To determine the details of the allegation, taking into account thresholds for LADO involvement.
- Confirm that children have been safeguarded.
- Determine whether there is cause to suspect that a child is suffering or is likely to suffer significant harm, in which case the LADO should refer to Children's social care and ask them to convene an immediate strategy meeting / discussion.
- Determine whether there is sufficient evidence or information that establishes that the allegation is unfounded or false.
- Consider what further information is needed.
- Consider whether suspension of the individual is indicated, if the agency/ organisation has not yet made this decision.
- Consider what information can be shared with children and their parents or carers and when.
- Consider whether there are any reasons for withholding from the accused person that they have been referred to the LADO (i.e. where this may compromise potential criminal or disciplinary investigations or place children at risk).
- Determine whether a Managing Allegations strategy meeting is warranted.

**There are three potential outcomes from the initial referral to the LADO, in terms of the investigation of allegations or concerns. These are:**

1. The allegation is demonstrably false/unfounded and no further action is required;
2. There are concerns however they are not child protection in nature but relate to the conduct of that staff member and as such, should be dealt with by the individual's employer/managers; or,
3. A LADO Managing Allegations strategy meeting needs to be arranged involving other relevant professionals (including the police if it appears that an offence has been committed) within five working days.

## Sharing Information

### Sharing Information with the person about whom an allegation has been made

1. Unless the LADO gives advice to the contrary, the accused person's employer should, as soon as possible, inform the individual about the nature of the allegation, how enquiries will be conducted and the possible outcomes. The individual should be given a copy of the LADO guidance: 'When you are the subject of an allegation'.
2. Where concerns have arisen due to events in the member of staff or volunteer's private life, the individual should be given a copy of the LADO guidance: 'When there are concerns about your personal life'.
3. All referrals made to the LADO are recorded on the local authority's electronic record. When the employer informs the subject that an allegation has been made, the subject must be made aware of this fact.

### Sharing Information with Families

The LADO will advise the employer whether or not informing the parents of the child/ren involved will impede the disciplinary or investigative processes. Acting on this advice, if it is agreed that the information can be fully or partially shared, the employer should inform the parent/s. In some circumstances, however, the parent/s may need to be told straight away (e.g. if a child is injured and requires medical treatment).

The parent/s and the child, if sufficiently mature, should be helped to understand the processes involved and be kept informed about the progress of the case and of the outcome where there is no criminal prosecution. This will include the outcome of any disciplinary process, but not the deliberations of, or the information used in, a hearing.

### Sharing information for disciplinary purposes

Wherever possible, police and Children's social care should, during the course of their investigations and enquiries, obtain consent to provide the employer and/or regulatory body with statements and evidence for disciplinary purposes.

If the police or CPS decide not to charge, or decide to administer a caution, or the person is acquitted, the police should pass all relevant information to the employer without delay.

If the person is convicted, the police should inform the employer and the LADO straight away so that appropriate action can be taken.

## Confidentiality

Every effort should be made to maintain confidentiality and guard against publicity while an allegation is being investigated or considered. Apart from keeping the child, parents and accused person (where this would not place the child at further risk) up to date with progress of the case, information should be restricted to those who have a need to know in order to protect children, facilitate enquiries, manage related disciplinary or suitability processes.

The police should not provide identifying information to the press or media, unless and until a person is charged, except in exceptional circumstances (e.g. an appeal to trace a suspect). In such cases, the reasons should be documented and partner agencies consulted beforehand.

Section 13 of the Education Act 2011 introduced restrictions implemented in September 2012 on the publication of any information that would identify a teacher who is the subject of an allegation of misconduct that would constitute a criminal offence, where the alleged victim of the offence is a registered pupil at the school.

Such restrictions remain in place unless or until the teacher is charged with a criminal offence, though they may be dispensed with on the application to the Magistrates' Court by any person, if the court is satisfied that it is in the interests of justice to do so, having regard to the welfare of:

- a. The person who is the subject of the allegation; and
- b. The victim of the offence to which the allegation relates.

There is a right of appeal to the Crown Court.

This restriction will apply to allegations made against any teacher who works at a school, including supply and peripatetic teachers. 'School' includes academies, Free Schools, independent schools and all types of maintained schools.

There is a new offence of publishing any information in breach of these restrictions. Publication includes any communication, in whatever form, which is addressed to the public at large or any section of the public.

## Support

The organisation, together with Children's social care and / or police, where they are involved, should consider the impact on the child concerned and provide support as appropriate. Liaison between the agencies should take place in order to ensure that the child's needs are addressed. As soon as possible after an allegation has been received, and only once it has been agreed that it is appropriate to share information with the accused member of staff, they should be advised to contact their union or professional association. Human resources should be consulted at the earliest opportunity in order that appropriate support can be provided via the organisation's occupational health or employee welfare arrangements.

## Suspension

**Suspension is a neutral act and it should not be automatic. It should be considered in any case where:**

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

The possible risk of harm to children should be evaluated and managed in respect of the child/ren involved and any other children in the accused member of staff's home, work or community life.

If a Managing Allegations strategy meeting / discussion is to be held or if Children's social care or the police are to make enquiries, the LADO should canvass their views on suspension and inform the employer. Only the employer, however, has the power to suspend an accused employee and they cannot be required to do so by a local authority or police.

If a suspended person is to return to work, the employer should consider what help and support might be appropriate (e.g. a phased return to work and/or provision of a mentor), and also how best to manage the member of staff's contact with the child concerned, if still in the workplace.

## Resignations and 'compromise agreements'

**Every effort should be made to reach a conclusion in all cases even if:**

- The individual refuses to cooperate, having been given a full opportunity to answer the allegation and make representations;
- It may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete.

Compromise agreements' must not be used (i.e. where a member of staff agrees to resign provided that disciplinary action is not taken and that a future reference is agreed). A settlement/compromise agreement which prevents the employer from making a DBS referral when the criteria are met for so doing would likely result in a criminal offence being committed for failure to comply with the duty to refer.

## Organised abuse

Investigators should be alert to signs of organised or widespread abuse and/or the involvement of other perpetrators or institutions. They should consider whether the matter should be dealt with in accordance with complex abuse procedures which, if applicable, will take priority. See Organised and Complex Abuse Procedure.

## Further Information

- LADO Guidance Note 1: Advice for Organisations
- LADO Guidance Note 2: Attending a LADO Managing Allegations strategy meeting
- LADO Guidance Note 3: What happens if an allegation is made against you?
- LADO Guidance Note 4: When there are concerns about your personal life
- **Working Together to Safeguard Children** (2015)
- **Disclosure and Barring Service** (DBS)
- **Keeping children safe in education** (2016)
- **Ofsted**