BEDALE HIGH SCHOOL

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| **Policy** | **MANAGING ALLEGATIONS AGAINST STAFF 2021/22** |
| **Headteacher** | **TOM KELLY** |

## Named personnel with designated responsibility for this policy

| | | | |
|---|---|---|---|
| 2015/16 | R Haydon | G Price | G Price |
| 2016/17 | R Haydon | G Price | G Price |
| 2018/19 | T Kelly | | J Reed/S Ingram |
| 2020/21 | T Kelly | | J Reed/S Ingram |
| 2021/22 | T Kelly | | J Reed/S Ingram |

## Policy Review dates

| Review Date | Changes made | By whom | Date Shared with staff |
|---|---|---|---|
| February 2019 | School to adopt NYCC practice guidance | T Kelly | February 2019 |
| June 2021 | Updated guidance | T Kelly | June 2021 |
| February 22 | No change to NY Safeguarding Children Partnership practice guidance attached .<br>Introduction of low level concern form & NYCC guidance updated Dec21 | T Kelly | February 22 |
| | | | |

| Date Ratified by Governors | Review Date |
|---|---|
| February 2022 | June 2023 |

North Yorkshire Safeguarding Children Partnership

# Managing Allegations Against Those Who Work or Volunteer With Children

**Procedure**

North Yorkshire
Safeguarding Children Partnership

# North Yorkshire Safeguarding Children Partnership

# Managing Allegations against Those Who Work or Volunteer With Children Procedure

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| 2.4 | LADO | 15/12/2015 | Amendment to contact number |
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| 2.6 | P&DO | 18/05/2016 | Amended link to leaflet |
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## 1. Scope of this Procedure:

1.1. This procedure outlines the key roles and responsibilities to be undertaken when responding to allegations against staff or volunteers who work with children.

1.2. **HM Government Guidance Working Together to Safeguard Children 2018** requires organisations and agencies working with children and families to have clear policies for dealing with allegations against people who work with children, defined in Working Together 2018 as "People in Positions of Trust".

1.3. **All references within this document to people who work with children, employment, relevant person and / or member of staff should be interpreted as meaning all paid or unpaid staff, supply staff and volunteers and this includes Foster Carers and prospective Adopters. All references to employers should be interpreted as meaning any agency or organisation with responsibility for paid or unpaid staff and volunteers, including Foster Carers and prospective Adopters. All references to child, children or young people refers to persons under the age of 18 years, in this document referred to as "child".**

1.4. **Working Together to Safeguarding Children 2018** identifies the role of the Local Authority Designated Officer (LADO) as that of managing and having oversight of individual cases, provision of advice and guidance to employers and voluntary organisations, liaison with the police and other agencies and the monitoring of cases to make sure they are dealt with as quickly as possible and are consistent with a thorough and fair process.

1.5. **Department for Education Guidance Keeping Children Safe in Education 2020** outlines additional roles and responsibilities to be undertaken when responding to allegations against teachers, members of staff or volunteers in schools or colleges that provide education for children under 18 years.

1.6. In line with **Working Together to Safeguard Children 2018 and Keeping Children Safe in Education 2020**, these NYSCP procedures should be applied when there is an allegation that any person who works[1] 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;
- Behaved towards a child or children in a way that indicates they may pose a risk of harm to children
- Behaved or may have behaved in a way that indicates they may not be suitable to work with children

[1] Is in a position of trust/ where they have regular and close contact with children and would be viewed by them as a trusted adult. Contact LADO if individual has recently worked or is actively seeking work with children or is likely to do so in the future, to consult on making a referral.

This procedure includes all those identified in 1.3 above.

1.7. Harm is defined in Section 31(9) of the Children Act 1989 as amended by the Adoption and Children Act 2002. Harm means ill-treatment or impairment of health or development including for example impairment suffered from seeing or hearing the ill-treatment of another. This therefore includes allegations in relation to sexual, physical, emotional harm and / or neglect. Both Working Together 2018 and Keeping Children Safe in Education 2020 include definitions and examples of the above categories of abuse and further examples are outlined in 1.8 below. This procedure can also be used where there appear to be patterns of behaviour that cause concern.

1.8. In addition to definitions outlined in Working Together 2018 and Keeping Children Safe in Education 2020:

Sexual harm could include allegations of inappropriate sexual behaviour including, but not limited to:

- Engaging in sexual activity with a child under 18 if in a position of trust in respect of that child, even if consensual (**Sections16-19 Sexual Offences Act 2003);**
- Grooming - meeting a child under 16 with intent to commit a relevant offence (**Section15 Sexual Offences Act 2003**);
- Other grooming behaviour giving rise to concerns of a broader child protection nature (for example: inappropriate communication and contact - texts, e-mail messages or the sending or receiving of images and gifts)
- Possession, distribution and/or making of indecent photographs / pseudo-photographs of children.

Physical harm could include, but not limited to:

- Hitting or throwing something at a child.
- Restraints where, for example, the force used was unreasonable or disproportionate, where the restraint was unwarranted in the circumstances, or could have been reasonably avoided, or where the injuries are not consistent with the level of force reported.
- Cases when seclusion has been used in other than exceptional circumstances.

Emotional harm could include, but is not limited to:

- Deliberately silencing or making fun of what children are saying or how they communicate;
- Serious bullying causing children to feel frightened or in danger

Neglect could include, but is not limited to:

- Failing to provide adequate supervision;
- Failing to ensure access to appropriate medical care or treatment

1.9 When considering if the person who works with children has **behaved or may have behaved in a way that indicates they may not be suitable to work with children**, the following are examples of safeguarding concerns that could be considered:

- possession of a weapon, domestic abuse and/or the sexual or physical assaults of an adult;
- when, as a parent or carer, children have become subject to Child Protection Procedures;
- where they are closely associated with someone in their personal lives (e.g. partner, member of the family or other household member) who may present a risk of harm to a child.

This will enable an assessment to be undertaken where there are concerns of transferability of risk to children they work or volunteer with.

The examples in 1.8 and 1.9 are not exhaustive, if in doubt, seek advice from the LADO.

1.10. These NYSCP procedures should be followed where a person's employment is covered by **The Childcare Act 2006** and where they are living in the same household where another person who is disqualified lives or is employed (a person is disqualified if they are found to have committed' an offence which is included in the 2009 Regulations (a relevant offence). See statutory guidance **The Childcare (Disqualification) and Childcare (Early Years Provision Free of Charge) (Extended Entitlement) (Amendment Regulations 2018 ("the 2018 Regulations").**

1.11. It is also important to note that whilst not specifically covered by statutory guidance safeguarding concerns involving family members and/or associates of individuals to which this procedure applies should also be considered and discussed with the LADO in order for risk to be fully assessed. (For example someone who works in a school whose partner has sexual convictions involving a child). Reporting such concerns to the organisation where the person works, or a LADO, will ensure that enquiries are undertaken to review whether the association poses any risk towards children through their work.

1.12. These NYSCP procedures should also be followed where allegations are made against an under 18 year old who is in a position of trust in relation to anyone under the age of 18. For example, where they might be involved in sport, babysitting or in community activities.

1.13. Where an allegation reported to the NYCC LADO involves a person who also works in the adult workforce, the NYCC LADO will contact the relevant Local Authority Adult Lead to establish who will assume lead responsibility for management and oversight of the case. The NYCC LADO will continue to have responsibility for the management and oversight of action required in line with this NYSCP procedure.

1.14. The NYCC LADO does not manage individual complaints or grievances relating to any investigation or action by a third party. Individual organisations have responsibility to manage any complaints in line with their own procedures.

1.15. The effectiveness of these procedures is monitored and evaluated by the NYSCP.

1.16. Supply Staff: Whilst schools and colleges are not the employer of supply staff they should ensure allegations are dealt with properly. In no circumstances should a school or college decide to cease to use a supply member of staff due to safeguarding concerns without finding out the facts and liaising with the Agency and the LADO. Agencies should be fully involved and co-operate in any enquiries from the police, Children and Families and / or the LADO.

## 2. Relevant Statutory Guidance:

- HM Government: Working Together to Safeguard Children 2018
- Department for Education: Keeping Children Safe in Education 2020
- Safeguarding Vulnerable Groups Act 2006
- Protection of Freedoms Act 2012
- Childcare Act 2006
- The Childcare (Disqualification) and Childcare (Early Years Provision Free of Charge) (Extended Entitlement) (Amendment Regulations 2018 ("the 2018 Regulations")
- Department for Education: Use of Reasonable Force Advice July 2013
- Children's Homes (England) Regulations 2015
- HM Government: Information Sharing July 2018 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721581/Information_sharing_advice_practitioners_safeguarding_services.pdf
- Disclosure and Barring Service Guidance www.dbs.gov.uk
- North Yorkshire Safeguarding Children Partnership website www.safeguardingchildren.co.uk

## 3. Relevant Definitions:

3.1. **Working Together to Safeguard Children 2018** defines an allegation as where a relevant individual 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.

**In Keeping Children Safe in Education 2020** there is an updated definition of an allegation where a relevant individual has:

- Behaved or may have behaved in a way that indicates they may not be suitable to work with children

and this has been incorporated in to the NYSCP procedures (see 1.6)

3.2. **Working Together to Safeguard Children 2018** does not include a definition of "harm", **Section 31(9) of the Children Act 1989, as amended by the Adoption and Children Act 2002** identify the definition of harm as:

- Harm means ill-treatment or impairment of health or development including for example impairment suffered from seeing or hearing the ill-treatment of another
- Development means physical, intellectual, emotional, social or behavioural development
- Health means physical or mental health
- Ill-treatment includes sexual abuse and forms of ill-treatment which are not physical.

3.3. Working Together to Safeguard Children 2018 and Keeping Children Safe in Education 2020 do not provide a definition of working with children. The LADO will determine this on a case by case basis and it will include all those who would be seen to be in a position of trust regardless of whether they are in Regulated Activity.

3.4. If there is any doubt contact should be made with the LADO to discuss and agree whether the criteria is met.

## 4. Non Recent, Organised and Complex Abuse Procedures:

4.1. Disclosures of child abuse are sometimes made by adults and young people a period of time after the abuse has occurred. For the purposes of this NYSCP procedure non-recent abuse is defined as where the reported abuse occurred over one year before it was disclosed and/or reported.

4.2. Investigators should be alert to the signs of organised or widespread abuse and/or the involvement of other perpetrators or institutions. Where relevant, the NYCC LADO will consult with the Head of Safeguarding (North Yorkshire Police and Children and Young People's Service) to determine whether the matter should be considered in accordance with organised and/or complex abuse procedures which, if applicable, will take priority.

4.3. A copy of the Non-Recent, Organised and Complex Procedures can be accessed via the following link:
https://www.safeguardingchildren.co.uk/professionals/nyscb-procedures/

## 5. Roles and Responsibilities:

### Employer / Organisations

5.1 All organisations should identify a Senior Manager with responsibility for

- Ensuring their organisation deals with allegations in accordance with these procedures
- Resolving any inter-agency issues.

5.2. Where there is no employer, organisation or regulatory body, the LADO will determine with the other agencies involved, who will inform the individual of the allegation and who will take forward any actions necessary in relation to the case.

5.3. All organisations (including School Governors, Trustees and Voluntary Organisations) must have clear policies in place setting out the process, including timescales for investigation and what support and advice is available to individuals against whom allegations have been made. The individual policies and procedures must explain what should happen when allegations about a member of staff and/or volunteer are raised and make a clear distinction between an allegation, a concern about the quality of care or practice or a complaint. The policies and procedures must include the requirement to nominate a Senior Manager to whom the allegations are reported. It should be the responsibility of the Senior Manager to report relevant allegations to, and liaise with, the NYCC LADO. All policies and procedures should be consistent with this NYSCP Procedure and other relevant NYSCP Procedures and Practice Guidance.

5.4. Relevant regulatory, governing or professional bodies that may not have a direct employment relationship with the individual have the responsibility to consider whether to continue to use an individual's services, or to approve an individual for work with children in future, or to de-register the individual.

5.5. There is a legal duty for regulated activity providers and personnel suppliers to make a referral to the DBS where they have permanently removed a person from regulated activity through dismissal or permanent transfer from regulated activity, (or would have done if the person had not left, resigned, retired or been made redundant).

### Local Authorities

5.6. In line with Working Together to Safeguard Children 2018 and Keeping Children Safe in Education 2020 NYCC have a team of designated officers (LADOs) who are involved in the management and oversight of allegations against people who work with children.

5.7. These NYSCP Procedures provide advice and guidance to employers, organisations and agencies on how to deal with allegations against people who work with children.

## Whistle – blowing

5.8. All employers and organisations should ensure that staff are aware of relevant whistle-blowing policies and that their employees feel confident to voice concerns about the behaviour or actions of colleagues. Whistle-blowing policies should include the procedure for reporting safeguarding concerns and the ability to directly report to the NYCC LADO in circumstances outlined at 5.9 below.

5.9. If an employee of an organisation believes that a reported allegation is not being dealt with appropriately by their organisation, they should report the matter to the NYCC LADO.

## LADO

5.10. The NYCC LADO will:

- Receive reports about allegations relevant to this procedure and be involved in the management and oversight of such cases.
- Provide advice and guidance to employers and voluntary organisations.
- Liaise with police and other agencies.
- Monitor the progress of cases to ensure they are dealt with as quickly as possible, consistent with a thorough and fair process.
- Provide advice and guidance to employers, organisations and regulated activity providers and personnel suppliers in relation to making referrals to DBS and/ or to relevant regulatory bodies including Ofsted and, Teacher Regulation Agency.

5.11. The NYCC LADO **does not** investigate allegations; this responsibility lies with the employer/ organisation and / or the police.

5.12. The NYCC LADO has the responsibility to ensure that any reported allegations against relevant individuals are not dealt with in isolation. Any safeguarding and support requirements in relation to the child or children and other parties involved will be actioned as appropriate. Where urgent this will be reported without delay and in all cases managed by those responsible in a co-ordinated way.

5.13. The NYCC LADO will liaise with a LADO from another Local Authority area where there is a case that covers more than one Local Authority area. The LADO case management will sit with the authority where the individual subject of an allegation works. However, where appropriate, a joint LADO Allegation meeting may take place.

## Police

5.14. North Yorkshire Police Detective Inspectors will:

- Have strategic oversight of the local police investigations for managing specific allegations against staff and volunteers. This will include, for example, responsibility for informing partners of changes to police practice (such as the changes to bail conditions) and keeping partners aware of the

number of cases they are dealing with and any themes which emerge from them;

- Ensure compliance with these NYSCP procedures.

Where the case involves a police investigation, the police officer for the case will have responsibility for liaising with the LADO on the progress of the case. Wherever possible the employer should ask the police to obtain consent from the individuals involved to share their statements and evidence for use in the employer disciplinary process. This should be done as their investigation proceeds and will enable the police to share relevant information without delay at the conclusion of their investigation or any court case

5.15. The North Yorkshire Police Vulnerability Assessment Team are the designated leads to:

- Liaise with the NYCC LADOs;
- Take part in relevant meetings / discussions;
- Review the progress of cases in which there is a police investigation;
- Share information as appropriate, during and on completion of an investigation or related prosecution.

**Children and Young Peoples Service**

5.16. NYCC CYPS Children & Families will arrange Strategy meetings, undertake assessments and provide help and / or services where the criteria are met under Working Together to Safeguard Children 2018. Where a Strategy meeting is held the LADO will attend and the Allegation Meeting will follow the Strategy meeting. Children and Families should seek to obtain consent from the individual to share their assessment so that any information obtained can be passed to the employer without delay.

5.17. NYCC CYPS Education and Skills and/ or Inclusion will lead on safeguarding concerns relating to schools and settings where they do not relate to a named individual.

## 6. Initial Response to an Allegation:

**Identification and initial action**

6.1. An allegation raised about a relevant individual may arise from a number of sources, for example, a report from a child, an adult in the organisation, or a parent or carer.

6.2. It may not always be clear whether an incident constitutes an allegation, whether a child has been harmed, or the person poses a risk of harm. In such circumstances advice should be sought from the LADO.

6.3. The person to whom an allegation or concern is first reported should treat the matter seriously and keep an open mind. They should **not**:

- Investigate or ask leading questions;
- Make assumptions or offer alternative explanations;

- Promise confidentiality.

6.4. Allegations involving an immediate risk to a child or a safeguarding concern that requires an urgent response should be reported immediately to the police by calling 999 (emergency) or 101 (non-emergency).

6.5. In all other cases (not reported directly to the police) the action should follow the organisation's procedures, which should include the following:

- Making a written record of the information (where possible in the child / adult's own words), including the time, date and place of incident/s, persons present and what was said;
- Signing and dating the written record;
- Immediately reporting the matter to the Senior Manager, or the Deputy in their absence or; where the Senior Manager is the subject of the allegation the nominated individual as per the organisation's procedure.

**Reporting to LADO**

6.6. The Senior Manager should review the information and:

- Identify whether it meets the harm /risk of harm threshold and is therefore an allegation. If so, they should follow the procedures below and make a referral to the NYCC LADO within one working day.
- If the Senior Manager is unclear whether it meets the harm / risk of harm/ suitability threshold they should seek advice from the Duty NYCC LADO.

6.7. In urgent cases where the allegation or concern relates to an immediate risk to a child or safeguarding concern that requires an urgent response North Yorkshire Police and/or the NYCC Emergency Duty Team for Children & Families should be contacted (see para 6.4). North Yorkshire Police should be contacted on either 999 (Emergency) or 101 (Non-Emergency) and the Local Authority Emergency Duty Team on 01609 780780. In such cases, North Yorkshire Police or NYCC Emergency Duty Team will advise on what information can initially be shared with any child, parent/carer, relevant individual and/or third parties. The NYCC LADO should be informed as soon as possible.

6.8. The NYCC LADO referral form is on the NYSCP Website (https://www.safeguardingchildren.co.uk/professionals/forms-for-professionals/) and should be completed and sent to lado@northyorks.gov.uk.

6.9. In all cases, the NYCC LADO will take appropriate advice from North Yorkshire Police and / or NYCC CYPS Children & Families Team regarding what information can initially be shared with any child and/or children, parents and/or carers, relevant individual and/or third parties.

**Confidentiality and Information Sharing**

6.10 The security and management of sensitive information is of paramount importance. The NYCC LADO co-ordinates the sharing of information across organisations, however, in all cases where there is an on-going police investigation the police investigating officer will lead on the management of information sharing in relation to the police investigation. The NYCC LADO will liaise closely with the police lead and organisation lead to ensure that effective information sharing takes place.

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 and manage any related disciplinary or suitability processes.

6.12 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:

- The person who is the subject of the allegation; and
- 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 an 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.

6.13 Effective sharing of information with other professionals is vital to safeguard and promote the welfare of children. The General Data Protection Regulations (GDPR) provide a framework to ensure that information is shared appropriately and further guidance is available on the NYSCP website:

https://www.safeguardingchildren.co.uk/Resources/information-sharing/

## 7. Consideration of the Allegation:

### Initial Consideration by LADO

7.1. The NYCC LADO will make an initial assessment, from the information provided in the referral, to determine if the threshold for implementing these procedures is met:

- In cases where it is not clear whether the threshold has been met, the employer/organisation and the NYCC LADO should discuss the incident and agree whether or not it meets the threshold. Consideration should be given to the risk or potential risk to both the child/children directly affected by the issue and any other children who may also be at risk.

- Where it is decided that the incident does not meet the threshold of harm/risk of harm/ then the employer/organisation should take steps to ensure any conduct or behaviour issues are addressed with the person through normal employment/organisation practices. There will be no further action from the LADO at this stage and the LADO will make a record.

- The NYCC LADO and the employer/organisation will record and agree the rationale for this decision. In circumstances where there is disagreement about whether the threshold is met the matter can be escalated to the NYCC LADO Manager.

7.2. There are 3 possible strands in the consideration of an allegation:

- A police investigation of a possible criminal offence;
- NYCC CYPS Children & Families enquiries and/or assessment about whether a child is in need of protection or services;
- Consideration by an employer /organisation / regulatory body of any action in relation to possible performance/ conduct issues.

7.3. The NYCC LADO will consult with a North Yorkshire Police designated lead in relation to all allegations that are of a sexual nature and any allegations of physical harm, emotional harm or neglect where there are concerns a criminal offence may have been committed.

7.4. The NYCC LADO will determine if a face to face Allegation meeting is needed at this stage, or whether information can be shared effectively between relevant parties through a discussion. This decision will be made on the complexity of the information to be shared and on the actions that will need to be determined. Details of any discussions will be fully recorded and shared with those involved.

7.5. If a meeting is to take place it will be arranged to take place within 3 working days of the allegation being referred to the LADO. If this timescale cannot be met the reasons will be recorded on the case file.

7.6. Prior to a meeting, it will be agreed between relevant parties what information can be shared with the employee, the child and their parent or carer. It will be agreed what information needs to be brought to the meeting by those attending.

**Allegation Management**

7.7. The NYCC LADO will check that there are no potential conflicts of interest from those attending the meeting and if so, consider how to manage the situation.

7.8 An Allegation Meeting / Discussion will decide and agree a strategy for managing the allegation. Many cases can be managed through a discussion between the Senior Manager, the police, any other relevant agency and the NYCC LADO. Where communication is via phone or email, detailed records should be kept for audit purposes on the organisation's case files.

7.9. An Allegation Meeting will normally only be convened where there is an allegation of a possible criminal offence and police are attending and / or where it is agreed by relevant parties that the case is complex.

7.10. The Allegation Meeting / discussion will be chaired by the NYCC LADO. If there is evidence of a possible criminal offence it will be attended by the North Yorkshire Police (Police Lead), the social work manager for the child (where there is one], and the organisation's nominated senior manager. Employers are advised to bring a Human Resources Advisor. It may be appropriate to invite a regulatory body to attend e.g. for allegations against those involved in sporting activities or Ofsted in the case of Childminders and managers of Child Care settings. Other relevant parties can, and will, be determined and invited on a case by case basis by the NYCC LADO in agreement with the core group of invitees.

7.11. The Allegation Meeting / discussion should:

- Check and record that there is no conflict of interest from those attending;
- Agree information sharing and confidentiality;
- Share all information known about the allegation and all actions to date;
- Share all appropriate information about the person who is the subject of the allegation
- Consider the current allegation in the context of any previous allegations or concerns;
- Ensure any specific information provided by any child, parent/carer, relevant individual and / or other party are considered;
- Where appropriate, take account of any requirement by staff to use reasonable force to control or restrain children;
- Consider whether a complex abuse investigation may be applicable;
- Co-ordinate enquiries and agree the investigative strategy, including, if needed, Police / Children & Families investigation / enquiries and set timescales;
- Consider whether any parallel disciplinary process can take place and agree protocols for sharing information;

- Decide what information can be shared, with whom and when.

7.12. The Allegation meeting / discussion should:

- Record the evaluation of the information shared and any assessment of risk;
- Record what arrangements are in place to manage the safeguarding of any child/ren involved and any other child/ren affected (by who and when);
- Record what support should be provided to all children who may be affected (by who and when) that have not already been identified and managed through strategy or complex case meetings;
- Outline how the voice of the child and/or parent/carer will be "heard" and managed within an investigation and how they will be kept up to date with the progress of an investigation and the NYSCP process;
- Record if a strategy meeting has been or will be held in relation to any of the children;
- Record what support arrangements are in place for the relevant individual and others who may be affected and how they will be kept up to date with the progress of an investigation and the NYSCP process;
- Ensure that any investigation can be sufficiently independent;
- Ensure that a plan is in place by the employer/organisation to enable the relevant individual to make appropriate representation during an investigation and the NYSCP process:
- Discuss whether suspension is appropriate and if there are any reasonable alternatives. NB. The decision to suspend lies with the employer/organisation.
- Identify a Lead Manager within each agency;
- Agree appropriate timescales for any organisation updates to the NYCC LADO having regard to the target timescales;
- Consider and record strategic issues for the attention of relevant agency senior management (e.g. media interest, resource implications);
- Consider and record if a referral should be made, in terms of interim prohibition, to a regulatory body (by who and when);
- Agree dates for future Allegation meetings / discussions.

**Timescales**

7.13. All allegations should be investigated as a priority by those concerned to avoid any delay. The time taken to investigate and resolve individual cases depends on a variety of factors including the nature, seriousness and complexity of the allegation, but the below targets should be achieved in all but exceptional cases. Target timescales are from Keeping Children Safe in Education 2020.

- For those cases where it is clear immediately that the allegation is unsubstantiated or malicious, they should be resolved within one week;
- Where the initial consideration identifies that the allegation does not involve a possible criminal offence it will be for the employer/organisation to deal with it, following discussion and agreement with the LADO. If the allegation does not require formal disciplinary action, the employer/organisation should instigate appropriate action within three working days;

- If a disciplinary hearing is required and can be held without further investigation, the hearing should be held within 15 working days.

It is expected that:

- 80 per cent of cases should be resolved within one month;
- 90 per cent should be resolved within three months;
- All but the most exceptional cases should be completed within 12 months.

**Consideration of Suspension**

7.14. The power and decision to suspend lies with the employer/organisation. Neither the Children and Families Service nor the police or the LADO can require employers or organisations to suspend a person.

However, where it is concluded that there should be enquiries by children's social care and/or an investigation by the police, the LADO should canvass police and children's social care for their views about whether the accused person needs to be suspended from contact with children in order to inform the employer's/organisation's consideration of suspension and they should give appropriate weight to their advice.

Suspension should be considered only in cases where there is cause to suspect a child or other children at the place of employment is/are at risk of harm or the case is so serious that it might be grounds for dismissal. The organisation's nominated Senior Manager must consider carefully whether the circumstances warrant suspension from contact with children, and may wish to seek advice from their HR adviser and / or legal adviser and the NYCC LADO. If the case involves a police investigation, then the police lead should also be included in any discussion as this may be relevant in relation to planned police investigatory action.

7.15. The organisation's nominated Senior Manager should also consider whether the result that would be achieved by immediate suspension could be obtained by alternative arrangements. Based on an assessment of risk by the employer, the following alternatives should be considered by the Senior Manager before suspending a member of staff:

- Redeployment so that the individual does not have direct contact with the child or children concerned;
- Providing an assistant to be present when the individual has contact with children;
- Redeploying to alternative work so the individual does not have unsupervised access to children;
- Temporarily redeploying the member of staff to another role in a different location.

7.16. If immediate suspension is considered necessary, the rationale and justification for such a course of action should be recorded by the Senior Manager and

provided to the NYCC LADO. This record should also include what alternatives to suspension have been considered and, if they were rejected, why.

Written confirmation of any suspension should be sent by the employer/organisation to the person subject to the allegation within one working day, giving as much detail as appropriate for the reasons for the suspension. They should be informed at the point of their suspension who their named contact is within the organisation and provided with that person's contact details.

7.17. In the case of foster carers, the responsible authority should give consideration as to whether the child or children can remain in the placement, and/or whether there should be temporary freezing of the placement.

### Notifications and Responsibilities

7.18. It is the responsibility of the employer /organisation to inform the parent(s)/carer of any allegation that relates to their child. It is also the employer's/ organisation's responsibility to keep them up to date about the progress of the case. NB. Where there is a Police investigation or NYCC CYPS Children & Families Service enquiries this responsibility may pass to / or involve the Police or Children & Families by agreement.

7.19. It is the responsibility of the employer /organisation to inform the individual of the details of the allegation, following agreement with the LADO and any other agencies about what can be shared.

7.20. It is the responsibility of the employer /organisation to keep the relevant individual up to date with the progress of the case and to give them the opportunity to participate fully in any investigation and to make full representation.

7.21. It is the responsibility of the employer /organisation to ensure the relevant individual is aware of the possible outcomes and the implications in terms of references and referrals.

7.22. At the conclusion of the case it is the responsibility of the employer /organisation to formally inform the parent, child/ren and any other relevant individual of the outcome of the case and the outcome of any internal / disciplinary process, in confidence.

## 8. Monitoring and Outcomes:

### Monitoring

8.1. The NYCC LADO should monitor and record the progress of each case, on a regular basis depending on its complexity, but usually on a monthly basis. Where the target timescales for completion cannot be met, the NYCC LADO should record the reasons and these should be outlined and recorded in the final review. The final review will include discussions with Police, Employers,

NYCC CYPS Children & Families, as appropriate. The NYCC LADO can convene review / update meetings / discussions as appropriate.

**Outcomes**

8.2. On concluding the case, there will be a final LADO review meeting / discussion involving all relevant parties who were involved in the initial meeting / discussion.

8.3. The final review meeting/discussion will consider relevant information gathered during the investigation and the outcome of the investigation. The main purpose of the final meeting is to determine the outcome of the allegation(s) (in line with Working Together 2018 and Keeping Children Safe in Education 2020). The outcomes are outlined below:

**No Further Action:** Allegation, after consideration, does not meet the criteria for these procedures

**Substantiated**: there is sufficient evidence to prove the allegation

**False:** there is sufficient evidence to disprove the allegation

**Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive

**Unfounded:** to reflect cases where there is no evidence or proper basis which supports the allegation being made

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

8.4. The final outcome of the allegation will be determined and recorded in detail.

8.5. The employer will inform the relevant individual of the outcome in writing, including:

- A comprehensive summary of the allegation,
- Details of how the allegation was followed up and resolved,
- Relevant employer's action taken and decisions reached,
- Whether the allegation will be referred to in future references by the employer
- How long any records will be retained by the employer
- If there will be a referral to DBS and / or any regulatory body by the employer.

8.6. False and / or malicious allegations may be an indication of abuse elsewhere and this should be explored further to determine if the child might have been abused by someone else and, where appropriate, a referral made to the Children and Families Service.

**Employment Record Keeping and References**

8.7. Keeping Children Safe in Education 2020 indicates that details of allegations that are found to have been malicious should be removed from the employer's

personnel records. In all other cases a copy of the details in 8.5 should be kept on the employer's/organisation's confidential personal file of the relevant individual. 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 an allegation re-surfaces after a period of time.

8.8. The record should be retained at least until the person subject to the allegation has reached normal pension age or for a period of 10 years from the date of the allegation if that is longer.

8.9. Substantiated allegations should be referred to in future references. Cases in which an allegation was determined to be NFA, false, unsubstantiated, unfounded or malicious should not be included in references. A history of repeated concerns or allegations which have all been found to be false, unsubstantiated or malicious should also not be included in any reference.

8.10. There is an additional requirement from the Independent Inquiry in to Child Sexual Abuse (IICSA) that no records within the scope of the inquiry should be destroyed, "Institutions have an obligation to preserve records for the Inquiry for as long as necessary to assist the Inquiry." This relates to records in respect of child sexual abuse. However, where the allegation is of physical abuse there needs to be consideration as to if this may have been sexually motivated, and if so, these records should also be retained. Please see IICSA guidance for further details.

## Referral to Disclosure and Barring Service and Regulatory / Professional Bodies

8.11. There is a **legal duty** for regulated activity providers (employers or volunteer managers of people working in regulated activity) and personnel suppliers to make a referral to the DBS where an individual in Regulated Activity has:

- Been cautioned or convicted of a relevant (automatic barring) offence, or
- Engaged in relevant conduct in relation to children that has harmed a child or put them at risk of harm, or
- Satisfied the Harm Test in relation to children (i.e. no action or inaction occurred but the present risk that it could was significant).

8.12. If an allegation is substantiated and the person is dismissed or the regulated activity provider or personnel supplier ceases to use the person's service or the person resigns or otherwise ceases to provide his/her services, there is a legal duty for the regulated activity provider or personnel supplier to make a referral to the DBS.

8.13 Under the Safeguarding and Vulnerable Groups Act 2006 Local Authorities, Keepers of Registers and Supervisory Authorities have a **legal power** to refer. A referral can also be in the interests of safeguarding children where the person has not been removed from working in regulated activity. This could include

acting on advice of the police or a safeguarding professional, or in situations where there is not enough evidence to dismiss or remove a person from working with vulnerable groups. Legal advice should be sought in such cases.

8.14. Full guidance is available on the DBS website: https://www.gov.uk/guidance/barring-referrals

8.15. Early Years and Childcare Providers should inform Ofsted of any allegation of serious harm or abuse by any person living, working or looking after children at the premises. Ofsted should also be invited to take part in any subsequent meetings / discussions, as appropriate.

8.16. A senior manager or fostering agency should inform Ofsted of all allegations made against a foster carer, prospective adopter, or member of staff in a residential child care facility.

8.17. If the relevant individual is a member of a regulatory or professional body a referral should be made to them as appropriate by the employer/organisation.

**Resignations and Compromise Agreements**

8.18. 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 in person and / or in writing.

8.19. 'Settlement agreements' (sometimes referred to as compromise agreements), by which a person agrees to resign if the employer agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, should not be used in cases of refusal to cooperate or resignation before the person's notice period expires. It is important to reach and record a conclusion and to determine what action would have been taken, wherever possible, and to make a referral to DBS if the criteria are met.

Any settlement/compromise agreement that would prevent a regulated activity provider or personnel supplier making a DBS referral even though the criteria for referral are met, is likely to result in a criminal offence being committed as they would not be complying with their legal duty to make the referral.

**Learning Lessons**

8.20. At the final Allegations Review meeting/discussion, or at an earlier opportunity if appropriate, the NYCC LADO should consider whether there are any areas for learning from a specific case (this can involve discussions with other key managers involved with the case) and raise any issues with the LADO Manager. There should also be consideration as to whether it meets the threshold for a Learning Lessons Review under the NYSCP procedures.

**New Information and Complaints**

8.21. If any individual considers, after the conclusion of a case, that there exists substantial new / additional information that was not available at the Final Allegations Review, they can write to the NYCC LADO Manager. The NYCC LADO Manager will consider whether the information provided would have made a material difference to the outcome categorisation made at the Final Allegations Review and whether any further investigation or review is appropriate. The LADO Manager will notify in writing to the reportee any determination made and/or action taken.

8.22. Any complaint about any aspect of the investigation of an allegation, or specific action taken by organisations, should be directed to the relevant organisation. In the case of a police investigation or action, this should be to the police force undertaking the investigation. In the case of an employment/voluntary activity/ regulatory body related investigation or action, this should be to the organisation responsible. The NYCC LADO is not responsible for the conduct of an investigation, or decisions made by specific organisations in furtherance of that organisation's legislative or procedural requirements.

8.23. Any complaint in relation to the application of the NYSCP Procedures that does not fit the criteria in relation to 8.21 or 8.22 should be made in writing and directed to the NYCC LADO Manager. These cases will be considered under NYCC and /or NYSCP procedures on a case by case basis.