



Managing Allegations Against Staff Policy and Procedure

History of document: To be reviewed annually and re-approved by the Trust Board every three years, or sooner if deemed necessary.

Version	Author	Date written	Approved	Note of Revisions
V1	L.Claringbold	21 Mar. 2022	11 May 2022	

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1. Introduction

Safeguarding and promoting the welfare of children is everyone's responsibility. Everyone who comes into contact with children and their families and carers has a role to play. In order to fulfil this responsibility effectively, all professionals should make sure their approach is child centred. This means that they should consider, at all times, what is in the best interests of the child.

YCST is committed to ensuring the welfare and safety of all children in school, and will take seriously any allegations where a member of staff, including a supply teacher, volunteer or contractor, 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
- behaved or may have behaved in a way that indicates they may not be suitable to work with children – this includes behaviour taking place both inside and outside of school.

This will include allegations involving any type of abuse or neglect, including inappropriate relationships with pupils, grooming behaviour of any kind, possession of indecent photographs or images of children and other offences under the [Sexual Offences Act 2003](#).

This document aims to set out how any allegations of abuse will be dealt with quickly, in a fair and consistent way that provides effective child protection while also supporting the individual who is subject of the allegation.

Further guidance should be read alongside this document, including, but not limited to, [Working Together to Safeguard Children](#), [Keeping Children Safe in Education](#) (KCSiE) and the [North Yorkshire Safeguarding Children Partnership](#) procedural document on [Managing Allegations Against Those Who Work With or Volunteer With Children](#) (*Appendix Four*).

2. Reporting an allegation

2.1. Everyone who comes into contact with children and their families has a role to play in safeguarding children. If any member of staff has a concern that a person may have behaved inappropriately, or they have received information that may constitute an allegation they must:

- **Immediately** report the facts to the headteacher, who will act as the 'case manager'.
(In the absence of the headteacher, then report immediately to the DSL. Where the allegation concerns the headteacher then the Chair of Governors should be notified, see also 2.2)
- Do not withhold any information however trivial it may seem
- A written record of the concerns must be signed, dated and given to the case manager straight away
- Confidentiality must be maintained

Staff must not:

- Attempt to deal with the situation themselves.
- Make assumptions, offer alternative explanations, or diminish or embellish the seriousness of the behaviour or alleged incidents.
- Withhold information or promise confidentiality.
- Take any action that might undermine any investigation or disciplinary procedure, such as disclosing confidential information, interviewing the alleged victim or potential witnesses, or informing the alleged perpetrator or parents/carers.

2.2. Where to direct concerns:

Complaint about:	Raise with:
School staff	Headteacher
Headteacher	Chair of Governors
Chair of Governors, an individual governor, whole school local governing body	Clerk to Governors, via school office
Trust central services staff	Executive Leader
Trust Executive Leader	Chair of Trustees
Chair of Trustees, any individual trustee or the whole Trust Board	Clerk to Trustees, via Trust office

3. Investigating an allegation

Case manager

The case manager should be identified straight away, it will usually be the headteacher or DSL. They will have a responsibility for:

- Ensuring that allegations are dealt with in accordance with this document and the NYSCP [Managing Allegations Against Those Who Work With or Volunteer With Children](#) procedures (*Appendix Four*)
- Keeping confidential records of the allegation and ongoing investigations
- Reporting to the Local Authority Designated Officer (LADO) immediately where there are allegations of abuse made against staff (*form in Appendix Two*)
- Notifying the Trust within 24 hours of any referrals to the LADO, police or other authorities, such as social services

Suspension

Suspension of the accused will not be the automatic response when an allegation is reported and will only be considered in cases where there is a reason to suspect that a child or other children is/are at risk of harm, or the case is so serious that there might be grounds for dismissal. In such cases, an individual will only be suspended when all other options have been considered and there is no reasonable alternative.

Advice should be sought from HR and the LADO, as well as the police and social case where they have been involved, and following an assessment of risk, the following alternatives should be considered before suspending a member of staff:

- Redeployment within the school 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 in the school so the individual does not have unsupervised access to children
- Moving the child or children to classes where they will not come into contact with the member of staff, but this decision should only be made if it is in the best interest of the child or children concerned and takes accounts of their views. It should be made making it clear that this is not a punishment and parents have been consulted
- Temporarily redeploying the member of staff to another role in a different location, if available, within the Trust

Procedure

In the event of an allegation, the case manager will take the following steps:

- **Conduct basic enquiries in line with local procedures (see Appendix Four)** to establish the facts to help determine whether there is any foundation to the allegation before carrying on with the steps below
- Discuss the allegation with the LADO. This is to consider the nature, content and context of the allegation and agree a course of action, including whether further enquiries are necessary to enable a decision on how to proceed, and whether it is necessary to involve the police and/or children's social care services. (The case manager may, on occasion, consider it necessary to involve the police before consulting the LADO – for example, if the accused individual is deemed to be an immediate risk to children or there is evidence of a possible criminal offence. In such cases, the case manager will notify the LADO as soon as practicably possible after contacting the police)
- Inform the accused individual of the concerns or allegations and likely course of action as soon as possible after speaking to the LADO (and the police or children's social care services, where necessary). Where the police and/or children's social care services are involved, the case manager will only share such information with the individual as has been agreed with those agencies
- Where appropriate (in the circumstances described above in 3.2), carefully consider whether suspension of the individual from contact with children at the school is justified or whether alternative arrangements such as those outlined above can be put in place. Advice will be sought from the LADO, police and/or children's social care services, as appropriate
- Where the case manager is concerned about the welfare of other children in the community or the individual's family, they will discuss these concerns with the DSL

and make a risk assessment of the situation. If necessary, the DSL may make a referral to children's social care

- **If immediate suspension is considered necessary**, agree and record the rationale for this with the LADO. The record will include information about the alternatives to suspension that have been considered, and why they were rejected. Written confirmation of the suspension will be provided to the individual facing the allegation or concern within 1 working day, and the individual will be given a named contact at the school and their contact details
- **If it is decided that no further action is to be taken** in regard to the subject of the allegation or concern, record this decision and the justification for it and agree with the LADO what information should be put in writing to the individual and by whom, as well as what action should follow both in respect of the individual and those who made the initial allegation
- **If it is decided that further action is needed**, take steps as agreed with the LADO to initiate the appropriate action in school and/or liaise with the police and/or children's social care services as appropriate
- Provide effective support for the individual facing the allegation or concern, including appointing a named representative to keep them informed of the progress of the case and considering what other support is appropriate.
- Inform the parents or carers of the child/children involved about the allegation as soon as possible if they do not already know (following agreement with children's social care services and/or the police, if applicable). The case manager will also inform the parents or carers of the requirement to maintain confidentiality about any allegations made against teachers (where this applies) while investigations are ongoing. Any parent or carer who wishes to have the confidentiality restrictions removed in respect of a teacher will be advised to seek legal advice
- Keep the parents or carers of the child/children involved informed of the progress of the case (only in relation to their child – no information will be shared regarding the staff member)
- Make a referral to the DBS where it is thought that the individual facing the allegation or concern has engaged in conduct that harmed or is likely to harm a child, or if the individual otherwise poses a risk of harm to a child

For early years providers:

We will inform Ofsted of any allegations of serious harm or abuse by any person living, working, or looking after children at the premises (whether the allegations relate to harm or abuse committed on the premises or elsewhere), and any action taken in respect of the allegations. This notification will be made as soon as reasonably possible and always within 14 days of the allegations being made.

If the trust is made aware that the secretary of state has made an interim prohibition order in respect of an individual, we will immediately suspend that individual from teaching, pending the findings of the investigation by the Teaching Regulation Agency.

Where the police are involved, wherever possible the trust will ask the police at the start of the investigation to obtain consent from the individuals involved to share their statements and evidence for use in the school's disciplinary process, should this be required at a later point.

Additional considerations for supply teachers and all contracted staff

If there are concerns or an allegation is made against someone not directly employed by the trust, such as a supply teacher or contracted staff member provided by an agency, we will take the actions below in addition to our standard procedures.

- We will not decide to stop using an individual due to safeguarding concerns without finding out the facts and liaising with our LADO to determine a suitable outcome
- The local governing body will discuss with the agency whether it is appropriate to suspend the individual, or redeploy them to another part of the school/trust, while the school carries out the investigation
- We will involve the agency fully, but the school/trust will take the lead in collecting the necessary information and providing it to the LADO as required
- We will address issues such as information sharing, to ensure any previous concerns or allegations known to the agency are considered (we will do this, for example, as part of the allegations management meeting or by liaising directly with the agency where necessary)

When using an agency, we will inform them of our process for managing allegations, and keep them updated about our policies as necessary, and will invite the agency's HR manager or equivalent to meetings as appropriate.

Timescales

We will deal with all allegations as quickly and effectively as possible and will endeavour to comply with the following timescales, where reasonably practicable:

- Any cases where it is clear immediately that the allegation is unsubstantiated or malicious should be resolved within 1 week
- If the nature of an allegation does not require formal disciplinary action, appropriate action should be taken within 3 working days
- If a disciplinary hearing is required and can be held without further investigation, this should be held within 15 working days

However, these are objectives only and where they are not met, we will endeavour to take the required action as soon as possible thereafter.

Specific actions

Action following a criminal investigation or prosecution

The case manager will discuss with the LADO whether any further action, including disciplinary action, is appropriate and, if so, how to proceed, taking into account information provided by the police and/or children's social care services.

Conclusion of a case where the allegation is substantiated

If the allegation is substantiated and the individual is dismissed or the school ceases to use their services, or the individual resigns or otherwise ceases to provide their services, the trust will make a referral to the DBS for consideration of whether inclusion on the barred lists is required.

If the individual concerned is a member of teaching staff, the trust will consider whether to refer the matter to the Teaching Regulation Agency to consider prohibiting the individual from teaching.

Individuals returning to work after suspension

If it is decided on the conclusion of a case that an individual who has been suspended can return to work, the case manager will consider how best to facilitate this.

The case manager will also consider how best to manage the individual's contact with the child or children who made the allegation, if they are still attending the school.

Unsubstantiated, unfounded, false or malicious reports

If a report is:

- Determined to be unsubstantiated, unfounded, false or malicious, the DSL will consider the appropriate next steps. If they consider that the child and/or person who made the allegation is in need of help, or the allegation may have been a cry for help, a referral to children's social care may be appropriate
- Shown to be deliberately invented, or malicious, the school will consider whether any disciplinary action is appropriate against the individual(s) who made it

Unsubstantiated, unfounded, false or malicious allegations

If an allegation is:

- Determined to be unsubstantiated, unfounded, false or malicious, the LADO and case manager will consider the appropriate next steps. If they consider that the child and/or person who made the allegation is in need of help, or the allegation may have been a cry for help, a referral to children's social care may be appropriate
- Shown to be deliberately invented, or malicious, the school will consider whether any disciplinary action is appropriate against the individual(s) who made it

Confidentiality and information sharing

The trust will make every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered.

The case manager will take advice from the LADO, police and children's social care services, as appropriate, to agree:

- Who needs to know about the allegation and what information can be shared
- How to manage speculation, leaks and gossip, including how to make parents or carers of a child/children involved aware of their obligations with respect to confidentiality
- What, if any, information can be reasonably given to the wider community to reduce speculation
- How to manage press interest if, and when, it arises

4. Outcomes of an investigation

The outcome of an investigation must be recorded as set out in KCSiE:

- **Substantiated:** there is sufficient evidence to prove an allegation
- **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive, or to cause harm to the subject of the allegation
- **False:** there is sufficient evidence to disprove the allegation
- **Unsubstantiated:** there is insufficient evidence to with prove or disprove the allegation (this does not imply guilt or innocence)
- **Unfounded:** to reflect cases where there is no evidence or proper basis which supports the allegation being made

5. Record keeping

The case manager will maintain clear records about any case where the allegation or concern meets the criteria above and store them on the individual's confidential personnel file for the duration of the case.

The records of any allegation that, following an investigation, is found to be malicious or false will be deleted from the individual's personnel file (unless the individual consents for the records to be retained on the file).

For all other allegations (which are not found to be malicious or false), the following information will be kept on the file of the individual concerned:

- A clear and comprehensive summary of the allegation
- Details of how the allegation was followed up and resolved
- Notes of any action taken, decisions reached and the outcome
- A declaration on whether the information will be referred to in any future reference

In these cases, the school will provide a copy to the individual, in agreement with children's social care or the police as appropriate.

Where records contain information about allegations of sexual abuse, we will preserve these for the Independent Inquiry into Child Sexual Abuse (IICSA), for the term of the inquiry. We will retain all

other records at least until the individual has reached normal pension age, or for 10 years from the date of the allegation if that is longer.

6. References

When providing employer references, we will:

- Not refer to any allegation that has been found to be false, unfounded, unsubstantiated or malicious, or any repeated allegations which have all been found to be false, unfounded, unsubstantiated or malicious
- Include substantiated allegations, provided that the information is factual and does not include opinions

7. Learning lessons

After any cases where the allegations are substantiated, the case manager will review the circumstances of the case with the LADO to determine whether there are any improvements that we can make to the Trust's procedures or practice to help prevent similar events in the future.

8. Low-level Concerns

- 8.1. YCST recognise the importance of responding to dealing with any concern in a timely manner to safeguard the welfare of children. In order to do this, it is also important to create a culture of openness, trust and transparency to encourage all staff to share any concerns – no matter how small – so that they can be addressed appropriately.
- 8.2. 'Low-level concerns', and the importance of addressing such concerns, are set out within [KCSIE](#) 2021. The statutory guidance provides examples as to the type of behaviour which could be deemed to be a low-level concern, i.e., behaviour or conduct which does not meet the threshold to be considered as an allegation against staff, but which may cause a sense of unease or a 'nagging doubt' that an adult working in or on behalf of the school may have acted in a way that;
 - Is inconsistent with the code of conduct, including inappropriate conduct outside of work; and
 - Does not meet the allegations threshold or is otherwise not considered serious enough to consider a referral to the LADO

Examples of such behaviour could include, but are not limited to:

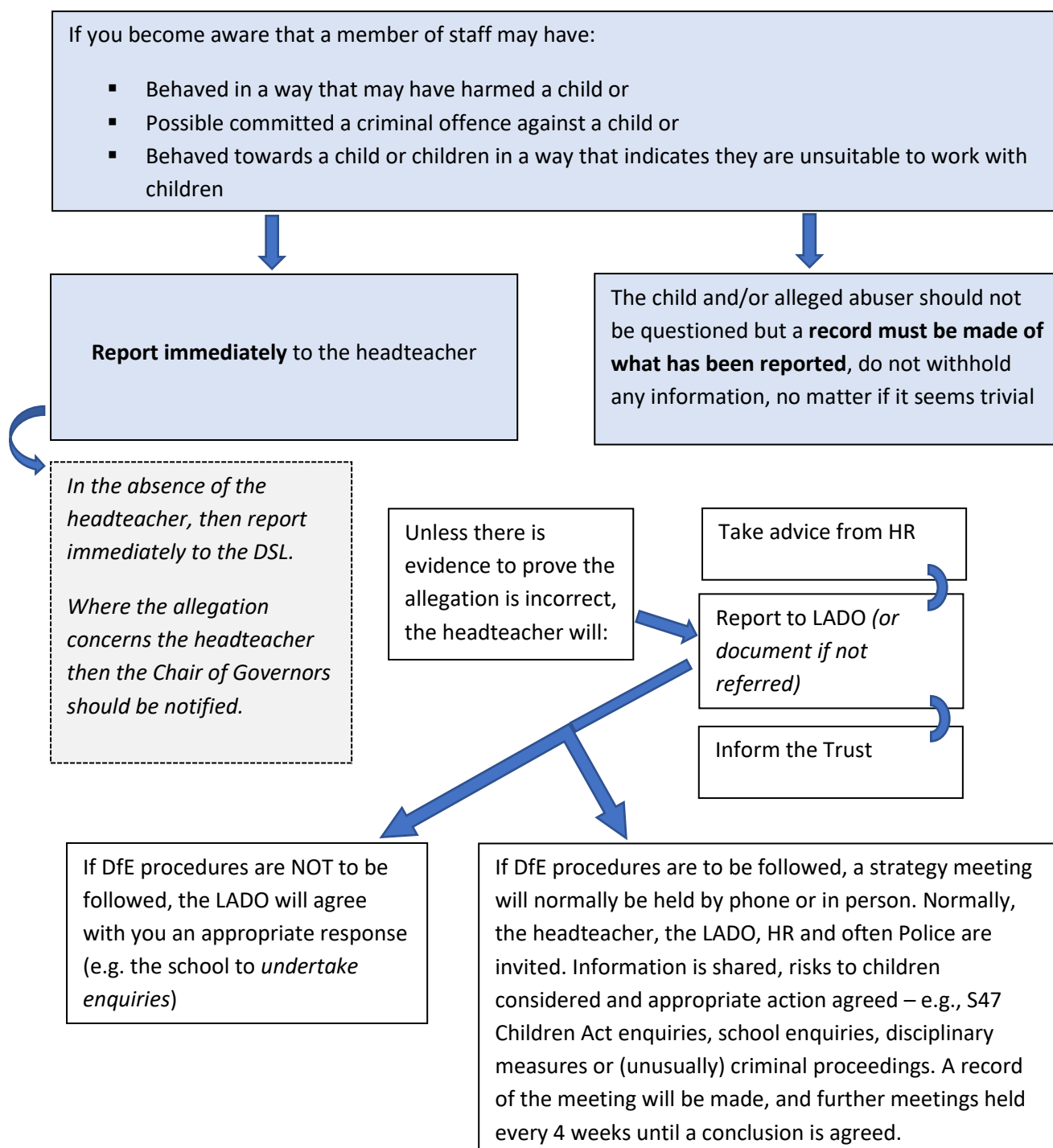
- being over friendly with children
- having favourites
- taking photographs of children on their mobile phone
- engaging with a child on a one-to-one basis in a secluded area or behind a closed door, or
- using inappropriate sexualised, intimidating, or offensive language.

- 8.3. It is crucial that any such concerns, including those which do not meet the harm threshold are shared responsibly and with the right person, and recorded and dealt with appropriately. It is expected that initially, concerns will be raised with the Headteacher/DSL (in line with the Child Protection Manual). Headteachers are also advised to discuss any concerns with the LADO and/or HR.
- 8.4. Following initial discussion with the LADO and/or HR, on receipt of a low-level concern from a third party, the Headteacher/DSL should collect as much evidence as possible by speaking to the person who raised the concern and to the individual involved and any witnesses. This information will aid your consideration of any further action that may be necessary.
- 8.5. Where it has been confirmed that the concerns do not meet the threshold to be considered as an allegation under the local safeguarding children board procedures (*Appendix Four*), consideration will be given as to whether the matter relates to poor performance or alleged misconduct. Disciplinary, Developing performance and Capability policies should be referred to in determining the most appropriate way of addressing their concerns. Each case will be considered on its merits, and action may range from monitoring and additional supervision, informal management advice through to a more formal disciplinary investigation and the possibility of a formal disciplinary sanction where the concerns are of a more serious nature or demonstrate a pattern where informal action or support has not been successful in resolving the identified concerns.
- 8.6. All actions taken in respect of the low-level concerns, along with all instances will be recorded clearly and comprehensively in writing, including the details of the concern, the context in which the concern arose, and the action taken. A template form has been provided to help in this process (*Appendix Three*). The name of the individual sharing their concern should also be noted, if the individual wishes to remain anonymous then that should be respected as far as is reasonably possible. Records will be held confidentially, securely and comply with GDPR.
- 8.7. Records will be reviewed regularly by the Headteacher/DSL so that potential patterns of concerning, problematic or inappropriate behaviour can be identified. Where a pattern of such behaviour is identified, an appropriate course of action should be determined, and it is advised that advice is sought from HR and the LADO. Any concerns which have the potential to meet the harm threshold must be referred to the LADO.

ASSOCIATED POLICIES

- Child Protection Manual
- Code of Conduct
- Whistleblowing Policy

APPENDIX ONE: Guidance Flowchart



Your LADO will:

1. Consider the relevant facts and concerns regarding the adult and the child/ren, including any previous history
2. Decide on the next course of action – usually straight away, sometimes after consultation with others, such as HR

APPENDIX TWO: LADO Referral Form

NYCC SAFEGUARDING UNIT LADO REFERRAL FORM

To be completed electronically and emailed to lado@northyorks.gov.uk
Egress users please forward to lado@northyorks.gov.uk

Please note: a separate form must be completed for each incident.
If the incident concerns more than one child each child must be named on the same form.
If the allegation is made against more than one person then each person should be named.

Information about the person against whom the allegation has been made

Family Name:		Given Name:		Date of Birth:	
Job Title / Role:		Sex:	<input type="checkbox"/> Male <input type="checkbox"/> Female		
Ethnicity:	Please Select				

Home address of person:	
Are there any children resident at the person's home address. If yes give name(s) and date(s) of birth:	
Does the person have any other contact (through work/volunteering) with vulnerable individuals (child/adult), please name and give location:	

Name of person's employer / Business Name and Address (include school name if applicable):	
Name of Senior Manager / person dealing with the allegation:	
E-Mail address:	
Telephone Number:	

Have any allegations or concerns been made against this person previously. If so, please give details:	
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Information about any child(ren) identified

Family Name:		Given Name:		Date of Birth:	
Home Address:			Sex:	<input type="checkbox"/> Male <input type="checkbox"/> Female	
Name of Parent/Carer:			Tel No:		
Any special circs: e.g. CP, LAC, disability:					

Information about the allegation or concern

Date, time and location of incident:			
Have you discussed this allegation with a LADO?	Please Select	If Yes - Which LADO?	

Description of allegation or concern (please give as much information as possible including details of any injuries/harm and any witnesses to the incident and any action taken)

Details of person completing this form

Name:		Date:	
Job Title:		Direct telephone number:	

APPENDIX THREE: Low-level concerns reporting form

This form can be used to share any concern, no matter how small or seemingly insignificant, even if no more than causing a sense of unease or a ‘nagging doubt’ – that an adult may have acted in a way that is inconsistent with the Code of Conduct (including inappropriate conduct outside of work) and/or in a way that on first glance does not appear to meet the allegation ‘harm’ threshold.

Your details			
Date and time of completing this form			
Name (optional)			
Role			
Signature			
Details of individual (including yourself for self-reporting) whom the concern is about			
Name			
Role			
Details of concern			
<p>Please include as much detail as possible. Think about the following: What behaviour and/or incident are you reporting? What exactly happened? Why does the behaviour and/or incident worry you?</p>			
Details of any children or young people involved			
Name(s)			
Next steps			
Are you willing to meet with the headteacher/DSL to discuss your concern?	<table border="1"> <tr> <td>Yes</td> <td>No</td> </tr> </table>	Yes	No
Yes	No		

For use by HT/safeguarding team upon receipt of the concern			
Date and time concerned received			
Name			
Role			
Signature			
Was the staff member spoken to?	No – Give a brief explanation for why not		
	Yes – Please detail their response		
Was advice/guidance sought from the LADO and/or Human Resources?	<table border="1"> <tr> <td>Yes</td> <td>No</td> </tr> </table>	Yes	No
Yes	No		
Have concerns been raised about this member of staff previously?	<table border="1"> <tr> <td>Yes</td> <td>No</td> </tr> </table>	Yes	No
Yes	No		
Actions to be taken and follow up			

This form will be held securely, either digitally or in paper form, in one central form in accordance with the Code of Conduct and any associated guidance regarding the management of concerns and/or allegations and in accordance with the Records Management practices/policies.

Low level concern reporting will be treated as confidential as far as possible, however in certain circumstances it may be necessary to share or disclose the information with third parties for relevant and necessary reasons. This includes where a reporter has indicated they wish to remain anonymous.

APPENDIX FOUR: NYSCP Managing Allegations Against Those Who Work or Volunteer with Children Procedure



North Yorkshire Safeguarding Children Partnership

Managing Allegations Against Those Who Work or Volunteer With Children

Procedure

North Yorkshire Safeguarding Children Partnership

Managing Allegations against Those Who Work or Volunteer With Children Procedure

Title	Managing Allegations Against Those Who Work or Volunteer With Children Procedure
Version	3
Date	04/10/2019
Author	Susan Crawford, NYCC LADO Manager
Edited by:	Susan Crawford, NYCC LADO Manager

Update and Approval Process			
Version	Group/Person	Date	Comments
2.3	NYSCB Executive	01/09/2015	Approved
2.3	NYSCB Board	21/09/2015	Approved
2.4	LADO	15/12/2015	Amendment to contact number
2.5	LADO	20/01/2016	Amend links to safeguardingchildren.co.uk
2.6	P&DO	18/05/2016	Amended link to leaflet
2.7	P&DO	08/12/2016	Amended contact details
2.7.1	P&DO	27/07/2017	Updated link due to change in referral form
2.7.2	P&DO	27/05/2018	Updated link due to change in referral form
2.7.3	P&DO	04/06/2018	Updated link to Referral Form and email address
3	NYSCB Practice Development Subgroup	11/07/2019	Updated and amended to a NYSCP Procedure
4	LADO Manager	11/09/2020	Updated and amended NYSCP Procedure

Issue Date	11/09/2020
Review Date	11/09/2022
Reviewing Officer	NYCC LADO Manager

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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 works¹ 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 (**Sections 16-19 Sexual Offences Act 2003**);
- Grooming - meeting a child under 16 with intent to commit a relevant offence (**Section 15 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-forprofessionals/>) and should be completed and sent to [lodo@northyorks.gov.uk](mailto: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.
- 6.11. 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 resurfaces 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.