

Managing Allegations of Abuse made Against Staff and Volunteers
working with Children Policy

Prepared By	Head of HR
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1.0 Purpose

Hamwic Education Trust is required to follow the Department for Education's statutory guidance for schools on **Keeping Children Safe in Education 2019**. Part four of the guidance deals with managing cases of allegations that might indicate a person would pose a risk of harm if they continue working in regular or close contact with children.

This policy sets out the approach that will be taken within Hamwic Education Trust to deal with allegations of abuse made against staff.

2.0 Scope

This policy applies to all employees of Hamwic Education Trust, whether school based or part of the Managed Services team, and any other people working within our schools, including agency/supply staff and volunteers and Governors

3.0 Introduction

The DfE guidance is comprehensive and statutory, and Hamwic Education Trust expects that its schools will follow this guidance in any cases that arise, to ensure that its duty of care to both its employees and to children are met.

The guidance should be referred to in any cases where a person has:

- Behaved in a way that has harmed a child, or may have harmed a child;
- Possibly committed a criminal offence against or related to a child; or
- Behaved towards a child or children in a way that indicates he or she would pose a risk of harm to children.

If an allegation is made against a member of staff, the quick resolution of that allegation should be a clear priority to the benefit of all concerned.

4.0 Responsibilities of Hamwic Education Trust and schools:

- To set out a clear procedure for dealing with allegations.
- To follow the DfE statutory guidance in all cases where allegations of abuse are made against staff.
- To alert the Deputy CEO: Business and Head of HR to all allegations that are made under this guidance.
- Ensure that all allegations are dealt with quickly, in a fair and consistent way, and making every effort to maintain confidentiality.
- Work in close liaison with the relevant Local Authority Designated Officer (LADO), and with the police and other agencies as appropriate.
- Ensure that any employee facing an allegation is provided with effective ongoing support through a named contact and regular updates about the progress of the case; advise the employee to contact their Trade Union representative (or full time official, if the employee is a TU rep), at the start of the process.
- Ensure that parents or carers of a child or children involved are told of the allegation, made aware of the prohibition on reporting or publishing allegations about teachers (which would include not publishing on social media), advised not to make any publications relating to any staff members, and are kept up to date with information about the progress of the case.
- Only suspend the person facing an allegation when absolutely necessary and when all options to avoid suspension have been considered.
- At the conclusion of a case where the allegation is substantiated and the person is dismissed or removed from regulated activity, decide whether it is appropriate to make a referral to the (a) Disclosure and

Barring Service (DBS) for consideration of inclusion on the barred lists and, (b) if a teacher whether to refer the matter to the Teacher Regulation Agency (TRA).

- Where an allegation is found to be unsubstantiated, malicious or deliberately invented, consider whether any follow-on actions are required in respect of the 'accuser' such as referral to the police or action under school behaviour policies.
- Carry out a case review at the conclusion of any case, to identify whether any improvements can be made.
- Keep a confidential record of all allegations made (other than those found to be malicious) on the individual's personnel file; and not refer to false, unsubstantiated or malicious allegations in any references.
- Where an employee/volunteer leaves a role prior to the conclusion of a case, ensure referral is made to DBS/TRA if they would have been removed if they had not resigned.

5.0 Main Contacts

Southampton and Hampshire

Sue Sevier

023 8091 5535

LADO@southampton.gov.uk

Portsmouth

Denise Lingham

023 9288 2500

LADO@portsmouth.gov.uk

Poole

Julie Murphy

01202 633694

juliemurphy@poole.gov.uk

Dorset

Patrick Crawford

01305 221122

p.crawford@dorsetcc.gov.uk

6.0 What is the difference between an allegation and a complaint?

6.1 Allegations

An allegation, in the context of the statutory obligations or organisations relates to any individual who works or volunteers in any capacity with children and where there is a concern that this person has or may have;

- Behaved in a way that has harmed a child, or may have hurt 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

In all cases where the concern about an individual falls into one of the categories above this will be considered to be an allegation, if it relates to a child, i.e. an individual who has not yet attained the age of 18.

In all such cases the allegation must be reported to the Local Authority Designated Officer (LADO) as soon as possible, but must be within 24 hours. **Under no circumstances should the Trust/School carry out any investigation or take any action until the matter has been referred to the LADO.**

Harm is described by the Government in making barring referrals to the DBS as - 'Harm is considered in it's widest context and may include, although not limited to:

- Sexual harm
- Physical harm
- Financial harm
- Neglect
- Emotional harm
- Psychological harm
- Verbal harm

6.2 Complaints

Complaints are generally expressions of dissatisfaction or concern that may relate to the delivery of a service by a team or individual.

A complaint may also be an expression of dissatisfaction about procedures or policy or the way procedures and policies are implemented by any team, team member or the organisation.

The Trust has its own complaints policy and all such complaints should be addressed following that policy.

Where there is no indication that the complaint relates to harm or potential harm to a child there is no need to refer to the LADO.

7.0 Allegations of abuse made against staff and volunteers working with children

7.1 Duties as an employer and an employee

7.1.1 This part of the Policy is about managing cases of allegations that might indicate a person would pose a risk of harm if they continue to work in regular or close contact with children in their present position, or in any capacity. (*The harm test is explained on the Disclosure and Barring service website on Gov.uk*). It should be used in respect of all cases in which it is alleged that a member of staff (including volunteers) that provides a service for children under 18 years of age has:

- Behaved in a way that has harmed a child, or may have harmed a child;
- Possibly committed a criminal offence against or related to a child; or
- Behaved towards a child or children in a way that indicates he or she would pose a risk of harm to children.

7.1.2 This part of the Policy relates to members of staff and volunteers who are currently working in any school regardless of whether the school is where the alleged abuse took place. Allegations meeting the above criteria against a staff member who is no longer working or volunteering should be referred to the police. Historical allegations of abuse meeting the above criteria should also be referred to the police.

7.1.3 Employers have a duty of care to their employees. They should ensure they provide effective support for anyone facing an allegation and provide the employee with a named contact if they are suspended. Details of the Trust Counselling service through Health Assured should also be shared with employees. It is essential that any allegation of abuse made against a member of staff or volunteer in the work place is dealt with in a timely manner, in a fair and consistent way that provides effective protection for the child and at the same time supports the person who is the subject of the allegation.

8.0 Initial considerations

- 8.1 The procedures for dealing with allegations need to be applied with common sense and judgement. Many cases may well either not meet the criteria set out above, or may do so without warranting consideration of either a police investigation or enquiries by local authority children's social care services and other agencies. In these cases, local arrangements should be followed to resolve cases without delay.
- 8.2 Some rare allegations will be so serious they require immediate intervention by children's social care services and/or police. The LADO should be informed of all allegations that come to a setting's attention and appear to meet the criteria so they can consult police and children's social care services as appropriate.
- 8.3 The following definitions should be used when determining the outcome of allegation investigations:
- **Substantiated:** there is sufficient evidence to prove the allegation.
 - **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive;
 - **False:** there is sufficient evidence to disprove the allegation;
 - **Unsubstantiated:** there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.
 - **Unfounded:** to reflect cases where there is no evidence or proper basis which supports the allegation being made.
- 8.4 In the first instance, the School Leader, or where the School Leader is the subject of an allegation, the Chair of Governors should immediately discuss the allegation with the Trust. The purpose of an initial discussion is for the Trust and the School Leader or Chair of Governors to consider the nature, content and context of the allegation and agree a course of action. It will also be agreed at this point, who should be the ('case manager'). The LADO will be contacted if it is agreed that this is the right course of action. The LADO may ask the case manager to provide or obtain relevant additional information, such as previous history, whether the child or their family have made similar allegations previously and the individual's current contact with children. There may be situations when the case manager will want to involve the police immediately (after seeking guidance from the Trust) for example if the person is deemed to be an immediate risk to children or there is evidence of a possible criminal offence. Where there is no such evidence, the case manager should discuss the allegations with the LADO in order to help determine whether police involvement is necessary.
- 8.5 Suspension should be considered and discussed but not be an automatic response to an allegation. In some cases there may be no alternative, but consideration should always be given to alternative actions. For example the staff member could be placed in a role where they do not have contact with children and young people. A risk suspension risk assessment may be considered at this point. (Please see full details on Suspension at point 16.0).
- 8.6 The initial sharing of information and evaluation may lead to a decision that no further action is to be taken in regard to the individual facing the allegation or concern; in which case this decision and a justification for it should be recorded by both the case manager and the LADO and agreement reached on what information should be put in writing to the individual concerned and by whom. The case manager should then consider with the LADO what action should follow both in respect of the individual and those who made the initial allegation.
- 8.7 The case manager should inform the accused person about the allegation as soon as possible after consulting the LADO. It is extremely important that the case manager provides them with as much information as possible at that time. However, where a strategy discussion is needed, or police or children's social care services need to be involved, the case manager should not do that until those

agencies have been consulted, and have agreed what information can be disclosed to the accused. Employers must consider carefully whether the circumstances of a case warrants a person being suspended from contact with children at the school or whether alternative arrangements can be put in place until the allegation or concern is resolved. All options to avoid suspension should be considered prior to taking that step (Please see further information on Suspension at 16.0).

- 8.8 If there is reasonable cause to suspect a child is suffering or is likely to suffer significant harm, a strategy discussion should be convened in accordance with the statutory guidance Working Together to Safeguard Children. If the allegation is about physical contact, the strategy discussion or initial evaluation with the police should take into account that the member of staff in a school or certain other situations is entitled to use reasonable force to control or restrain children in certain circumstances, including dealing with disruptive behaviour.
- 8.9 Where it is clear that an investigation by the police or children's social care services is unnecessary, or the strategy discussion or initial evaluation decides that is the case, the LADO should discuss the next steps with the case manager. In those circumstances, the options open to the employer depend on the nature and circumstances of the allegation and the evidence and information available. This will range from taking no further action to the use of the disciplinary policy or a decision not to use the person's services in future. Suspension should not be the default position: an individual should be suspended only if there is no reasonable alternative.
- 8.10 In some cases, further enquiries will be needed to enable a decision about how to proceed. If so, the LADO should discuss with the case manager how and by whom the investigation will be undertaken. In straightforward cases, the investigation should normally be undertaken by a senior member of staff within school, or in the Trust, as appropriate.
- 8.11 However, in other circumstances, such as lack of appropriate resource within the setting, or the nature or complexity of the allegation will require an independent investigator. Many local authorities already provide for an independent investigation of allegations, often as part of the personnel services that schools, colleges and other employers can buy in from the authority. It is important that local authorities ensure that schools and colleges have access to an affordable facility for independent investigation where that is appropriate. If an independent investigator is used the employee should be informed and provided with the investigator's contact details.

9.0 Supporting those involved

- 9.1 Employers have a duty of care to their employees. They should act to manage and minimise the stress inherent in the allegations process. Support for the individual is vital to fulfilling this duty. Individuals should be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action, unless there is an objection by the children's social care services or the police. The individual should be advised to contact their trade union representative, if they have one, or a colleague for support. They should also be given access to welfare counselling through Health Assured on 0800 023 4742 or medical advice where this is provided by the employer.
- 9.2 The case manager should appoint a named representative to keep the person who is the subject of the allegation informed of the progress of the case and consider what other support is appropriate for the individual. For some staff, that may include occupational health support via Occupational Health Consultancy or employee welfare arrangements through Health Assured. Particular care needs to be taken when employees are suspended to ensure that they are kept informed of both the progress of their case and current work-related issues. Social contact with colleagues and friends should not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

- 9.3 Parents or carers of a child or children involved should be told about the allegation as soon as possible if they do not already know of it. However, where a strategy discussion is required, or police or children’s social care services need to be involved, the case manager should not do so until those agencies have been consulted and have agreed what information can be disclosed to the parents or carers. Parents or carers should also be kept informed about the progress of the case, and told the outcome where there is not a criminal prosecution, including the outcome of any disciplinary process. The deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, cannot normally be disclosed, but the parents or carers of the child should be told the outcome in confidence.
- 9.4 Parents and carers should also be made aware of the requirement to maintain confidentiality about any allegations made against teachers whilst investigations are on-going as set out in section 141F of the Education Act 2002 (see paragraphs 213 - 214). See also 10.2 below. If parents or carers wish to apply to the court to have reporting restrictions removed, they should be told to seek legal advice. They should also be advised not to make any publications regarding any other member of staff.
- 9.5 In cases where a child may have suffered significant harm, or there may be a criminal prosecution, children’s social care services, or the police as appropriate, should consider what support the child or children involved may need.
- 9.6 In deciding what information to disclose, careful consideration should be given to the provisions of the Data Protection Act 2018, the law of confidence and, where relevant, the Human Rights Act 1998.

10.0 Confidentiality

- 10.1 It is extremely important that when an allegation is made, the employer makes every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. For teachers, The Education Act 2002 introduced reporting restrictions preventing the publication of any material that may lead to the identification of a teacher who has been accused by, or on behalf of, a pupil from the same school (where that identification would identify the teacher as the subject of the allegation). The reporting restrictions apply until the point that the accused person is charged with an offence, or until the Secretary of State or the General Teaching Council for Wales publishes information about an investigation or decision in a disciplinary case arising from the allegation. The reporting restrictions also cease to apply if the individual to whom the restrictions apply effectively waives their right to anonymity by going public themselves or by giving their written consent for another to do so or if a judge lifts restrictions in response to a request to do so. The provisions commenced on 1 October 2012.
- 10.2 The legislation imposing restrictions makes clear that “publication” of material that may lead to the identification of the teacher who is the subject of the allegation is prohibited. “Publication” includes “any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public”. This means that a parent who, for example, published details of the allegation on a social networking site would be in breach of the reporting restrictions (if what was published could lead to the identification of the teacher by members of the public).
- 10.3 In accordance with the Authorised Professional Practice published by the College of Policing in May 2017, the police will not normally provide any information to the press or media that might identify an individual who is under investigation, unless and until the person is charged with a criminal offence. (In exceptional cases where the police would like to depart from that rule, for example an appeal to trace a suspect, they must apply to a magistrates’ court to request that reporting restrictions be lifted).
- 10.4 The case manager should take advice from the LADO, police and children’s social care services to agree the following:

- Who needs to know and, importantly, exactly what information can be shared;
- How to manage speculation, leaks and gossip (including social media);
- What, if any information can be reasonably given to the wider community to reduce speculation; and
- How to manage press interest if and when it should arise.

11.0 Managing the situation and exit arrangements

11.1 Resignations and 'settlement agreements'

11.1.1 If the accused person resigns, or ceases to provide their services, this should not prevent an allegation being followed up in accordance with this guidance. **A referral to the DBS *must* be made, if the criteria are met.** Schools have a legal duty to refer to the DBS anyone who has harmed, or poses a risk of harm, to a child or vulnerable adult where:

- The harm test is satisfied in respect of that individual
- The individual has received a caution or conviction for a relevant offence, or if there is reason to believe that the individual has committed a listed relevant offence; and
- The individual has been removed from working (paid or unpaid) in regulated activity, or would have been removed had they not left.

The legal duty to refer applies equally in circumstances where an individual is deployed to another area of work that is not regulated activity, or they are suspended. If the accused person resigns or their services cease to be used and the criteria are met it will not be appropriate to reach a settlement agreement. A settlement agreement which prevents the employer from making a DBS referral when the criteria are met would likely result in a criminal offence being committed as the employer would not be complying with their legal duty to make the referral.

11.1.2 Where a teacher's employer, including an agency, dismisses or ceases to use the services of a teacher because of serious misconduct, or might have dismissed them or ceased not to use their services had they not left first, they must consider whether to refer the case to the Secretary of State, as required by sections 141D and 141E of the Education Act 2002. The Secretary of State may investigate the case, and if s/he finds there is a case to answer, must then decide whether to make a prohibition order in respect of the person. Details on how to refer can be found on Gov.uk link <https://www.gov.uk/government/publications/dbs-workforce-guidance>

11.1.3 It is important that every effort is made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children, including any in which the person concerned refuses to cooperate with the process. The accused should be given a full opportunity to answer the allegation and make representations about it. But the process of recording the allegation and any supporting evidence, and reaching a judgement about whether it can be substantiated on the basis of all the information available, should continue even if that cannot be done or the accused does not cooperate. It may be difficult to reach a conclusion in those circumstances, and it may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete, but it is important to reach and record a conclusion wherever possible.

11.1.4 'Settlement agreements' by which a person agrees to resign if the employer agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, should not be used in cases of refusal to cooperate or resignation before the person's notice period expires. Such an agreement will not prevent a thorough police investigation where that is appropriate.

12.0 Record keeping

- 12.1 Details of allegations that are found to have been malicious should be removed from personnel records. However, for all other allegations, it is important that a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, is kept on the confidential personnel file of the accused, and a copy provided to the person concerned.
- 12.2 The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where future DBS checks reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time. The record should be retained at least until the accused has reached normal pension age or for a period of 10 years from the date of the allegation if that is longer.
- 12.3 The Information Commissioner has published guidance on employment records in its Employment Practices Code and supplementary guidance, which provides some practical advice on record retention. https://ico.org.uk/media/for-organisations/documents/1064/the_employment_practices_code.pdf

13.0 References

- 13.1 Cases in which an allegation was proven to be false, unsubstantiated or malicious should not be included in employer 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.

Advice should be sought from HR when Hamwic schools are asked to provide a reference in these circumstances.

- 13.2 Employers should always ask for written information about previous employment history and check that information is not contradictory or incomplete. The purpose of seeking references is to allow the school to obtain objective and factual information to support appointment decisions. References should always be obtained from the candidates current employer. Where a candidate is not currently employed, verification of their most recent period of employment and reasons for leaving should be obtained from the school, college, local authority or organisation at which they were employed.
- 13.3 Any information about past disciplinary action or allegations that are disclosed should be considered carefully when assessing the applicant's suitability for the post (including information obtained from the Teacher Services' checks.

14.0 Timescales

- 14.1 It is in everyone's interest to resolve cases in a timely manner consistent with a fair and thorough investigation. All allegations should be investigated as a priority to avoid any delay. Target timescales are shown below: 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 these targets should be achieved in all but truly exceptional cases. It is expected that 80 per cent of cases should be resolved within one month, 90 per cent within three months, and all but the most exceptional cases should be completed within 12 months.
- 14.2 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 decides that the allegation does not involve a possible criminal offence it will be for the employer to deal with it, although if there are concerns about child protection, the employer should discuss them with the LADO. In such cases, if the nature of the allegation does not require formal disciplinary action, the employer should instigate

appropriate action within three working days. If a disciplinary hearing is required and can be held without further investigation, the Trust's disciplinary procedure should be followed.

15.0 Oversight and monitoring

15.1 The LADO has overall responsibility for oversight of the procedures for dealing with allegations, for resolving any inter-agency issues, and for liaison with the three safeguarding partners. The LADO will provide advice and guidance to the case manager, in addition to liaising with the police and other agencies, and monitoring the progress of cases to ensure that they are dealt with as quickly as possible consistent with a thorough and fair process. Reviews should be conducted at fortnightly or monthly intervals, depending on the complexity of the case.

15.2 Police forces should also identify officers who will be responsible for:

- Liaising with the designated officer(s);
- Taking part in the strategy discussion or initial evaluation;
- Subsequently reviewing the progress of those cases in which there is a police investigation; and
- Sharing information on completion of the investigation or any prosecution.

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

16.0 Suspension

16.1 The possible risk of harm to children posed by an accused person should be evaluated and managed in respect of the child(ren) involved in the allegations. In some rare cases that will require the case manager to consider suspending the accused until the case is resolved. Suspension should not be an automatic response when an allegation is reported; all options to avoid suspension should be considered prior to taking that step. If the case manager is concerned about the welfare of other children in the community of the employee's family, those concerns should be reported to the LADO children's social care or police. But suspension is highly unlikely to be justified on the basis of such concerns alone.

16.2 Suspension should be considered only in a case where there is cause to suspect a child or other children at the school or college is/are at risk of harm or the case is so serious that it might be grounds for dismissal. However, a person should not be suspended automatically: the case manager must consider carefully whether the circumstances warrant suspension from contact with children at the employee's place of employment or until the allegation is resolved, and may wish to seek advice from HR and the LADO.

16.3 In schools cases where the employer is made aware that the Secretary of State has made an interim prohibition order in respect of an individual at the school, immediate action should be taken to ensure the individual does not carry out work in contravention of the order, i.e. pending the findings of the TRA investigation, the individual must not carry out teaching work.

16.4 The case manager should also consider whether the result that would be achieved by immediate suspension could be obtained by alternative arrangements. In many cases an investigation can be resolved quickly and without the need for suspension. If the LADO, police and children's social care services have no objections to the member of staff continuing to work during the investigation, the case

manager should be as inventive as possible to avoid suspension. Based on assessment of risk, the following alternatives should be considered by the case manager before suspending a member of staff:

- Redeployment within the school/Trust 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 establishment so the individual does not have unsupervised access to children;
- In schools possibly moving the child or children to classes where they will not come into contact with the member of staff, 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, for example to an alternative school.

16.5 These alternatives allow time for an informed decision regarding the suspension and possibly reduce the initial impact of the allegation. This will, however, depend upon the nature of the allegation. The case manager should consider the potential permanent professional reputational damage to employees that can result from suspension where an allegation is later found to be unsubstantiated or maliciously intended.

16.6 If immediate suspension is considered necessary, the rationale and justification for such a course of action should be agreed and recorded by both the case manager and the LADO. This should also include what alternatives to suspension have been considered and why they were rejected.

16.7 Where it has been deemed appropriate to suspend the person, written confirmation should be dispatched within one working day, giving as much detail as appropriate for the reasons for the suspension and the date at which that suspension will be reviewed. In addition to this the person should be informed of any restrictions that may apply to them (e.g. contact with colleagues, pupils, entering premises etc.). It is not acceptable for an employer to leave a person who has been suspended without any support. The person should be informed at the point of their suspension who their named contact is within the organisation and provided with their contact details.

16.8 Children's social care services or the police cannot require the case manager to suspend a member of staff or a volunteer, although they should give appropriate weight to their advice. The power to suspend is vested in the employer. However, where a strategy discussion or initial evaluation concludes that there should be enquiries by the children's social care services and/or an investigation by the police, the LADO should canvass police and children's social care services for views about whether the accused member of staff needs to be suspended from contact with children in order to inform the employer of consideration of suspension. Police involvement does not make it mandatory to suspend a member of staff; this decision should be taken on a case-by-case basis having undertaken a risk assessment.

17.0 Information sharing

17.1 In a strategy discussion or the initial evaluation of the case, the agencies involved should share all relevant information they have about the person who is the subject of the allegation, and about the alleged victim.

17.2 Where the police are involved, 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.

17.3 Children's social care services should adopt a similar procedure when making enquiries to determine whether the child or children named in the allegation are in need of protection or services, so that any

information obtained in the course of those enquiries which is relevant to a disciplinary case can be passed to the employer without delay.

18.0 Specific actions

18.1 Following a criminal investigation or a prosecution

The police should inform the employer and LADO immediately when a criminal investigation and any subsequent trial is complete, or if it is decided to close an investigation without charge, or not to continue to prosecute the case after person has been charged. In those circumstances the LADO should discuss with the case manager whether any further action, including disciplinary action, is appropriate and, if so, how to proceed. The information provided by the police and/or children's social care services should inform that decision. The options will depend on the circumstances of the case and the consideration will need to take into account the result of the police investigation or the trial, as well as the different standard of proof required in disciplinary and criminal proceedings.

19.0 Conclusion of a case

19.1 If the allegation is substantiated and the person is dismissed or the employer ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the LADO should discuss with the case manager and HR whether the employer will make a referral to the DBS for consideration of inclusion on the barred lists is required. In the case of a member of teaching staff whether to refer the matter to the TRA to consider prohibiting the individual from teaching.

19.2 **There is a legal requirement for employers to make a referral to the DBS where they think that an individual has engaged in conduct that harmed (or is likely to harm) a child; or if a person otherwise poses a risk of harm to a child.**

19.3 Where it is decided on the conclusion of a case that a person who has been suspended can return to work, the case manager should consider how best to facilitate that. Most people will benefit from some help and support to return to work after a stressful experience. Depending on the individual's circumstances, a phased return and/or the provision of a mentor to provide assistance and support in the short term may be appropriate. The case manager should also consider how the person's contact with the child/ren who made the allegation can best be managed if they are still in contact with the individual.

20.0 In respect of malicious or unsubstantiated allegations

20.1 If an allegation is determined to be unsubstantiated or malicious, the LADO should refer the matter to the children's social care services to determine whether the child concerned is in need of services, or may have been abused by someone else. If an allegation is shown to be deliberately invented or malicious, the employer should consider whether any disciplinary action is appropriate against the child who made it; or whether the police should be asked to consider if action might be appropriate against the person responsible, even if he or she was not a pupil.

21.0 Learning lessons

21.1 At the conclusion of a case in which an allegation *is* substantiated, the LADO should review the circumstances of the case with the case manager to determine whether there are any improvements to be made to the Trust's procedures or practice to help prevent similar events in the future. This should include issues arising from the decision to suspend the member of staff, the duration of the suspension and whether or not suspension was justified. Lessons should also be learnt from the use of suspension when the individual is subsequently reinstated. The LADO and case manager should consider how future investigations of a similar nature could be carried out without suspending the individual.

22.0 Further information

22.1 See the College of Policing: Engagement, Communication and Media relations.

<https://www.app.college.police.uk/app-content/engagement-and-communication/media-relations/>

23.0 Links to other policies

- Child protection/safeguarding
- Safer Recruitment
- Disciplinary
- Use of physical restraint
- Whistleblowing
- Code of Conduct