

# **Managing allegations/concerns about individuals who work or volunteer with children flowchart guidance.**

## **Criteria - Working Together 2018**

Referrals to Children's Social Care need to be considered when a child is at risk of significant harm and an individual who is working or volunteering with children has:-

1. behaved in a way that has harmed a child, or may have harmed a child
2. possibly committed a criminal offence against or related to a child
3. behaved towards a child or children in a way that indicates they may pose a risk of harm to children
4. behaved or may have behaved in a way that indicates they may not be suitable to work with children

When considering the definitions of harm and whether threshold is met for a LADO consultation or referral to SPOA, the following guidance provides information about the criteria and process. The examples provided are not exhaustive as the nature of allegations can sometimes be complex, depending on the history of those who are involved.

## **East Sussex procedures for contact with the LADO**

All safeguarding/child protection referrals, meeting thresholds for level four on the Continuum of Need should be referred to the Single Point of Advice (SPOA), using a Statement of Referral template. In the event there is an allocated team or social worker, contact should be made with them in the first instance.

If there is an allegation where a criminal offence might have been committed, please contact police or social care for advice before taking any further action.

If a LADO consultation is required, please go to the LADO webpage, and complete the online referral form, which will go direct to the LADO inbox. The LADO/Assistant LADO will make contact with you by phone or email regarding your enquiry and offer advice in the usual way. LADO webpage:

[www.eastsussex.gov.uk/lado](http://www.eastsussex.gov.uk/lado)

All referral/consultation requests must include the following information for adults and children:

- Full names, dates of birth and addresses for member of staff and child/ren involved
- Relevant employment history including any previous disciplinary investigations, allegations or complaints you are aware of.
- Details of any employment in another local authority area where applicable.
- Details of any secondary roles.

## **Examples of behaviour/concerns meeting criteria for LADO referral/consultation**

### **Behaviours which have or may cause harm**

These are more likely to fall in the remit of professional conduct, for example:

- Contact with children and young people through social media and private email accounts

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- Bullying, threats and intimidation
- Comments of a personal, derogatory or racially abusive nature which could cause emotional harm.
- Physical contact of a non-sexual nature, but which breaches a code of conduct
- Providing rewards and incentives which are not sanctioned within a code of conduct and could single out particular children or young people to the detriment of others.

These types of behaviour should be discussed with the LADO in the first instance, as they have happened in isolation. Sometimes there is a fine line between harm and behaviour constituting a possible criminal offence. If they form part of a pattern or there are other concerns about the context, consideration would need to be given to whether a referral was required.

### **Behaviours associated with criminal offences**

If a child or young person makes an allegation of sexual or physical abuse, a Statement of Referral (SOR) should be sent to the MASH without delay. The SOR should contain as much information as possible regarding the allegation, full details of the victim and perpetrator. There might be times when there is uncertainty about the process and if in doubt the MASH or LADO can be contacted for guidance prior to sending the SOR. Examples where a SOR is warranted are:

- Physical abuse and restraint where injuries have been caused to a child including; scratches, cuts, bruises, red marks, swelling, bites and broken bones
- Disclosures of sexual abuse, including direct contact, historic incidents, links to exploitation, grooming and online abuse
- Physical abuse or inappropriate restraint, pushing or shoving without injury, but this has been witnessed.
- In incidences where allegations of physical abuse are difficult to corroborate because they have not been witnessed or there is a history of previous allegations from a young person, a discussion should still be had with MASH about whether the threshold for a referral is met. MASH might not agree a referral once they have consulted with Police, but will give advice about liaison with the LADO and/or an internal investigation.

Please note that if injuries have been observed these should be documented on a body map, with a description of size, location and the type of injury seen. Photographs should not be taken by other professionals or sent by email as Police and a Paediatrician will usually take photographs and measure these to scale. There are occasions when Police might ask for this to be done, and agreement will be needed about this on a case by case basis.

### **Behaviours which might pose a risk to a child**

Any of the behaviours already identified could meet this criteria. However, there are some behaviours in the workplace which would breach the code of conduct but have not caused immediate harm. In other instances events in a person's personal life could impact upon their professional or voluntary role with children and young people, for example:

- Being under the influence of drugs or alcohol in the workplace
- Inappropriate use of work IT equipment in work or at home eg viewing adult pornography
- Neglect of duty of care/failure to protect or report a safeguarding concern
- Personal involvement with Children's Services, for example employee who has children in care or on child protection plans.
- Domestic Abuse
- Arrest or prosecution for a criminal offence outside of work including sexual offences in relation to children or adults, violence, drugs, drink driving and fraud

### **Behaviours which might impact on suitability to work with children**

This is to capture a broader range of behaviour which may indicate risk. Where an incident occurs outside of the workplace and did not involve children but could have an impact on a person's suitability to work with

children, this is known as transferable risk. For example, where a person who works or volunteers with children is involved in a domestic abuse incident at home where no children were involved, where violent behaviour is triggered and could pose a risk to children in the workplace.

Suitability is an issue when concerns arise about any of the behaviours already identified above and the following examples:

- Substance or alcohol misuse at home
- Risk by association – ability to protect own children and impact on safeguarding in professional role
- The person's behaviour with regard to their own children
- Behaviour in the private or community life of a partner, member of the family or other household member. A person's behaviour in their personal life, which may impact upon the safety of children to whom they owe a duty of care

Some offences in private life qualify for disclosure to employer and code of conduct/staff handbooks should also draw attention to expectations around disclosures made by employees, for example, make it clear that if a person is arrested, charged or cautioned they need to inform you.

An adult arrested for a sexual offence/serious violence should be suspended, but other offences can be worked under a risk assessment. Media interest should also be considered as part of this risk assessment.

Disqualification under the Childcare Act 2006 (June 2016) – no longer in existence, but we still cover risk by association, for example, a person in a position of trust who is in a relationship with a sex offender.

In the first instance any code of conduct issues should be discussed with the LADO. Agencies might be contacted about other incidents where Police and Children's Services involvement has happened, but there might also be times when criminal activity in someone's personal life is not reported to Children's Social Care and there should be a discussion with the SPOA about this.

If any professionals become aware that there are safeguarding concerns in an individual's private life and they work or volunteer with children, there should be a consultation with the LADO to consider how this can be monitored or addressed. If there are child protection concerns, and social care involvement the employer should be made aware in case there are additional factors to take into consideration with that person's role. If there is social care involvement under child in need, it might still be necessary to inform the employer, but the level of concerns will need to be discussed and an action plan agreed. The employee should be encouraged to talk to their employer in the first instance.

## **Next steps**

SPOA will triage a referral, and if it is agreed it meets the threshold for Level 3, when this is on the cusp of Level 3 and Level 4, it will be passed to the MASH in the usual way. The MASH Practice Manager will discuss the referral with Police and the LADO. A decision will be made about whether there is a risk of significant harm which requires a strategy discussion. If this is not agreed the LADO will follow up with an employer or organisation who will be asked to conduct an internal investigation.

**NB: If the child already has an allocated Social Worker, contact should be made with the MASH in the first instance and agreement will be made about who will lead investigation.**

Decisions will also need to be made about immediate action needed to safeguard any children, and this might include whether an adult needs to be refrained or suspended prior to a strategy meeting. Consideration also needs to be given to any other employment or voluntary work the individual is involved in. This action will need to be agreed with HR on advice from the LADO and Police if there is a potential criminal investigation.

If it has been agreed there is a risk of significant harm a Strategy Meeting will be held, where all relevant professionals, a representative from HR/Personnel, Police and the LADO will be invited to attend. The victim and alleged perpetrator will not be included in this meeting. The strategy meeting should be arranged within 3 working days of the referral being received.

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A Manager from the Duty and Assessment Team or MASH will chair the meeting unless there is an allegation involving a Children's Social Care employee or Foster Carer, in which case the LADO will chair the meeting. However, if the Duty or MASH Managers are not available the LADO might chair the strategy meeting to avoid unnecessary delays. The reason for this is that the immediate and wider safeguarding issues for any child or young person the alleged perpetrator might have contact with will need to be considered.

If the child already has a Social Worker from another team, it is usually agreed that the allocated team will take forward the strategy meeting with the LADO, unless there are concerns about Child Sexual Exploitation. In this instance the MASH Practice Manager might still have involvement in the meeting. This might also be the case when there is a conflict of interest, and it is considered an independent manager should chair the meeting.

Action Plans will be formulated at the strategy meeting, and a decision might be made to have a review meeting, particularly if there are gaps in information which need to be clarified.

## **Out of hours referrals**

If a child has made a disclosure of physical or sexual abuse and there is physical evidence a Statement of Referral (SOR) should be discussed with the Emergency Duty Service (EDS). They will be able to liaise with the Police Serious Investigation Units (SIU) based in Eastbourne, Hastings and Brighton, who now provide additional cover. The Police might decide with EDS to start a joint investigation over the weekend to avoid delay.

## **Outcomes**

Once a strategy meeting has taken place the following outcomes will be taken forward:

1. NFA as the allegation is found to be unsubstantiated, false, unfounded or malicious.
2. NFA for Children's Services, but there are issues to address in relation to professional conduct or suitability, as concerns were substantiated, but did not meet threshold for criminal investigation. Unsubstantiated outcomes are the most difficult ones to address, as there might still be concerns, but insufficient evidence to proceed; eg a disclosure of sexual abuse where the victim is not willing to make a statement, or physical abuse where there are no injuries, but the account was credible. However, there are occasions when action might be considered to minimise any identified concerns or risks, and this will need to be considered on a case by case basis. HR will provide support and the LADO will need to be kept updated of outcomes. In these cases the concerns might be addressed via an internal investigation and disciplinary meeting or through additional training and monitoring. This could be resolved with the individual being or remaining suspended pending the outcome of enquiries or while they remain at work.
3. Duty and Assessment (DAT) or one of the long-term social work teams will take forward a Family Assessment under Child in Need (Section 17 Children Act 1989) as unmet needs were identified for the victim or children linked to the perpetrator. This could result in universal services on levels 1-3 on the continuum of need or longer-term social work support and action in relation to alleged perpetrator might result in outcomes in 1 and 2 above.
4. DAT or one of the long-term social work teams will undertake a Family Assessment due to Child Protection Concerns (Section 47 Children Act 1989). This could result in the actions/outcomes in 1-3 above.
5. The Police might undertake a criminal investigation in relation to a suspected criminal offence when concerns are substantiated. This can take several months to complete especially if IT equipment needs to be checked and the Crown Prosecution Service then needs to review the file. This will often result in the perpetrator remaining on bail for an extended period, while they remain suspended from

their employment or voluntary role. HR and the LADO will provide support and liaise during this period, including advice about whether a DBS referral is warranted.

## **Outcome Definitions**

- Substantiated — there is sufficient identifiable evidence to prove the allegation.
- False — there is sufficient evidence to disprove the allegation.
- Malicious — there is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false.
- Unfounded — there is no evidence or proper basis which supports the allegation being made. It might also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively, they may not have been aware of all the circumstances.
- Unsubstantiated — this is not the same as a false allegation. It means that there is insufficient evidence to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.
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## **Miscellaneous referrals to other teams**

There are occasions, when agencies including the NSPCC, OFSTED and Complaints Team receive complaints or safeguarding concerns from parents or other third parties, which do not meet the criteria for a SPOA referral or LADO Consultation. Early Years providers also have a duty to report injuries to children which occur on the premises. These should be dealt with as follows:

- OFSTED/NSPCC Complaints, which do not meet threshold for referral to SPOA, should be passed to or discussed with the LADO to establish whether the Schools Safeguarding Officer/Standards and Learning Effectiveness Service (SLES) need to investigate.
- Any accidental injuries which happen at a childminder's home or in an Early Years setting need to be reported to OFSTED and the relevant Standards and Learning Consultant in the Early Years Improvement Team.

## **Other contacts**

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| <b>SPOA<br/>County)</b>             | 01323 464222 ( <b>1<sup>st</sup> Point of Contact for all referrals East and West of</b><br><a href="mailto:0-19.SPOA@eastsussex.gov.uk">0-19.SPOA@eastsussex.gov.uk</a> ) |
| <b>MASH/DAT WEST</b>                | 01323 747373   |
| <b>MASH/DAT EAST</b>                | 01424 724144   |
| <b>Emergency Duty Service (EDS)</b> | 01273 335905/335906  |