

Managing allegations against staff, members, directors, governors or volunteers' procedure

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Introduction

All allegations of abuse of children by those who work with children (whether in a paid or unpaid capacity) **must be taken seriously**. The procedure below is adopted from the Regional Child Protection Procedures for the West Midlands which cover Birmingham, Solihull and Warwickshire and complies with the latest version of Keeping Children Safe in Education and makes it clear to directors and all staff within Birmingham Diocesan Multi-Academy Trust of their responsibilities. This policy includes procedures that will be followed by other agencies.

This policy covers **all** staff employed within the Trust, and unpaid members such as directors, governors and volunteers.

The Local Authority Designated Officers (LADOs) in each of the three authorities that BDMAT schools are in can be contacted by the methods shown below:

- ✓ To refer to the Local Authority Designated Officer (LADO) in Birmingham you will need to call **0121 675 1669** or email: ladoteam@birminghamchildrenstrust.co.uk. The LADO referral form can be found via the following link <https://lscpbirmingham.org.uk/working-with-children/lado>
- ✓ To refer to the Local Authority Designated Officer (LADO) in Solihull you will need to call **07795128638** or email: lado@solihull.gov.uk (please put 'LADO referral' in subject line). The LADO referral form can be found via the following link <https://westmidlands.procedures.org.uk/local-content/ygjN/lado-managing-allegations/?b=Solihull>
- ✓ To refer to the Local Authority Designated Officer (LADO) in Warwickshire you will need to complete a Position of Trust Multi-Agency Referral Form (MARF) available from <https://www.warwickshire.gov.uk/childrens-social-care/child-safeguarding-procedures-professionals/4> and send it to lado@warwickshire.gov.uk

1.0 Thresholds for implementation of this procedure

1.1 These procedures should be applied when there is an allegation or concern that any person who works 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 or
- Behaved or may have behaved in a way that indicates they may not be suitable to work with children

- 1.2 The last bullet point above includes behaviour that may have happened outside of the school or Trust, that might make an individual unsuitable to work with children. This is known as transferable risk.
- 1.3 These behaviours should be considered within the context of the definitions of abuse and neglect and should include concerns relating to inappropriate relationships between members of staff and children or young people, for example:
- having a sexual relationship with a child under 18 if in a position of trust in respect of that child, even if the child or young person has given their consent
 - 'Grooming', i.e. meeting a child under 16 with intent to commit a relevant offence
 - other 'grooming' behaviour giving rise to concerns of a broader child protection nature (for example, inappropriate text/e-mail messages or images, gifts, socialising etc)
 - possession of indecent photographs/pseudo-photographs of children
- 1.4 All references in this document to 'members of staff' should be interpreted as meaning all paid or unpaid staff and volunteers, including trustees and governors.
- 1.5 This chapter also applies to any person who manages, or facilitates access to, an establishment where children are present.
- 1.6 This document relates to all BDMAT employed staff, directors, governors and volunteers regardless of where the alleged abuse took place.

2.0 Roles and responsibilities

- 2.1 The BDMAT board has appointed the following people as designated senior managers to whom allegations or concerns should be reported; deputies have also been identified should the designated senior manager not be available.
- Chair of the BDMAT Board for allegations and concerns about the CEO (in the absence of the Chair the Vice Chair should be reported to)
 - CEO for allegations or concerns about any Headteacher or the Head of School (in the absence of the CEO the Head of School Support should be reported to)
 - Headteachers for allegations or concerns about any school-based staff or volunteers (in the absence of the Headteacher a DSL in the school should be reported to)
 - Head of School Support for allegations or concerns about centrally employed staff members or volunteers including governors (in the absence of the Head of School Support the CEO should be reported to)

- Where there are concerns regarding a director or member these should be made directly to the LADO team in consultation with the Chair of the Trust.
- 2.2 The Head of School Support should be notified of all allegations and concerns immediately, to ensure consistency of approach across the Trust.
- 2.3 In some circumstances schools will have to consider an allegation against an individual not directly employed by them, where its disciplinary procedures do not fully apply, for example, supply teachers provided by an employment agency or business. Whilst schools are not the employer of supply teachers, they should ensure allegations are dealt with properly. In no circumstances should a school decide to cease to use a supply teacher due to safeguarding concerns, without finding out the facts and liaising with the local authority designated officer ([LADO](#)) to determine a suitable outcome.
- 2.4 A discussion with the agency as to whether it is appropriate to suspend the supply teacher, or redeploy them to another part of the school, whilst the investigation is in progress should take place after consultation with the CEO or Head of School Support.
- 2.5 Detailed guidance on managing allegations can be found in the latest version of *Keeping Children Safe in Education: Statutory guidance for schools and colleges*.

3.0 Underlying principles

When dealing with allegations against staff, trustees (sometimes referred to as 'directors' within BDMAT), governors or volunteers the following principles should be applied:

3.1 Confidentiality

- 3.11 Every effort should be made to maintain confidentiality and guard against publicity while an allegation is being investigated. Apart from keeping the child, parents and accused person (where this would not place the child at further risk) up to date with the 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 related disciplinary processes.
- 3.12 The police should not provide identifying information to the press or media, unless and until a person is charged, except in exceptional circumstances (for example, an appeal to trace a suspect). Any exceptional circumstances should be documented, and partner agencies consulted beforehand.

3.2 Specific requirements in relation to teachers

- 3.21 Section 13 of the Education Act 2011 places restrictions 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.
- 3.22 Such restrictions remain in place unless or until the teacher is charged with a criminal offence, though the Magistrates' Court may dispense with these restrictions if it is satisfied that it is in the interests of justice to do so, having regard to the welfare of:
- a. The person who is the subject of the allegation and
 - b. The victim of the offence to which the allegation relates.
- 3.23 There is a right of appeal to the Crown Court.
- 3.24 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.
- 3.25 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.

3.3 Support

- 3.31 The school, together with local authority children's social care and/or police (where they are involved), should consider the impact on the child concerned and provide support as appropriate. Liaison between the agencies should take place in order to ensure that the child's needs are addressed.
- 3.32 As soon as possible after an allegation has been received, the accused member of staff should be advised to contact their union or professional association. The BDMAT HR team should be consulted at the earliest opportunity in order that appropriate support can be provided via the organisation's occupational health or employee welfare arrangements.

3.4 Suspension

- 3.41 Suspension should not be automatic. It should, however, be considered in any case where:
- there is cause to suspect a child has suffered or is likely to suffer significant harm
 - the allegation warrants investigation by the police or

- the allegation is so serious that it might be grounds for dismissal
- 3.42 The possible risk of harm to children should be evaluated and managed in respect of the child involved and any other children in the accused member of staff's home, work, or community life.
- 3.43 If a strategy meeting/discussion is to be held, or if local authority children's social care or the police are to make enquiries, the Local Authority Designated Officer (LADO) should canvass their views on suspension and inform the designated senior manager within the Trust. Only the employer, however, has the power to suspend an accused employee and they cannot be required to do so by the local authority or police, although they should give appropriate weight to their advice.
- 3.44 In compliance with Keeping Children Safe in Education, the designated senior manager in full consultation with the CEO and the LADO, must consider carefully whether the circumstances warrant suspension from contact with children at the school, until the allegation is resolved. In many cases an investigation can be resolved quickly and without the need for suspension. If the LADO, police, and children's social 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.
- 3.45 Based on advice from the BDMAT HR team and an assessment of risk, the following alternatives should be considered before suspending a member of staff:
- temporarily redeploying the member of staff to another role in a different location, for example a role that does not require interaction with children or to an alternative school or department within the academy Trust.
 - 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 or college 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 interests of the child or children concerned and takes account of their views. It should be made clear that this is not a punishment and parents have been consulted.
- 3.46 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 designated senior 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.

- 3.47 If immediate suspension is considered necessary, the rationale and justification for such a course of action should be agreed and recorded by both the designated senior manager and the local authority designated officer(s). This should also include what alternatives to suspension have been considered and why they were rejected. 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. 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.
- 3.48 If a suspended person is to return to work, the designated senior manager in conjunction with the BDMAT HR team should consider what help and support might be appropriate (for example, a phased return to work and/or provision of a mentor), and also how best to manage the member of staff's contact with the child concerned, if still in the workplace.

3.5 Managing the situation and exit arrangements

3.51 Resignations and 'compromise agreements'

- In compliance with KCSIE and Local Arrangements '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, where there are allegations that indicate the person is a risk or poses a risk of harm to children or deemed not suitable to work with children. Such an agreement will not prevent a thorough police and/or school/Trust investigation where that is appropriate.
- Schools/Trust should not cease their investigations if the person leaves, resigns or ceases to provide their services. It is important that every effort is made to reach a conclusion in all cases of allegations with a bearing on the safety or welfare of children, including any in which the person concerned refuses to cooperate.
- Wherever possible, the accused should be given full opportunity to answer the allegation and make representations about it. The process of recording the allegation and any supporting evidence and reaching a judgement about whether it can be substantiated or otherwise on the basis of all the information available, should continue even if 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 an outcome

wherever possible. The person concerned should be notified of the conclusion of the allegations and sanctions that might be posed.

- Other than where allegations are false, malicious, unsubstantiated, or unfounded, the outcome should be made clear when providing references to prospective employers. This is particularly important where the person moves into another position involving working with children.
- It is not appropriate to reach a settlement/compromise agreement if the person subject to the allegation resigns or their services cease to be used. However, in limited circumstances schools sometimes use settlement agreements to end the employment relationship on agreed terms, but not where there is an allegation that the individual poses a risk to children.
- Where a settlement/compromise agreement is used, the Trust will not let it prevent its staff from:
 - ✓ fulfilling their legal duty to refer cases to the DBS where the referral criteria are met (non-compliance of this duty is a criminal offence)
 - ✓ providing a reference to potential employers when requested
 - ✓ considering whether to make a referral to the Teacher Regulation Agency (TRA) where the criteria are met.

3.52 References

Cases in which an allegation was found to be false, unfounded, unsubstantiated or malicious should not be included in employer references. Any repeated concerns or allegations which have all been found to be false, unfounded, unsubstantiated or malicious should also not be included in any reference.

Substantiated safeguarding allegations that meet the harm threshold should be included in references, provided that the information is factual and does not include opinions. When asked to provide references, schools should ensure the information confirms whether they are satisfied with the applicant's suitability to work with children and provide the facts (not opinions) of any substantiated safeguarding concerns/allegations that meet the harm threshold.

3.6 Organised and Non-Recent abuse

- 3.61 Investigators should be alert to signs of organised or widespread abuse and/or the involvement of other perpetrators or institutions. They should consider whether the matter should be dealt with in accordance with complex abuse procedures which, if applicable, will take priority. See [organised and complex abuse](#)
- 3.62 Non-Recent allegations should be dealt with in the same way as contemporary concerns. It will be important to ascertain if the accused is currently working with children and to consider whether their current employer should be informed.

Allegations against a teacher who is no longer teaching should be referred to the police. Non-Recent allegations of abuse should also be referred to the police.

3.7 Whistleblowing

- 3.71 All staff should feel confident to voice concerns about the attitude or actions of colleagues. It is the responsibility of each agency to advise their staff to access its internal whistle blowing policy. This should form part of staff members' induction process and should be included in annual updates.
- 3.72 If a member of staff believes that a reported allegation or concern is not being dealt with appropriately by their organisation, they should report the matter to the Local Authority Designated Officer (LADO) for their area.

3.8 Timescales

- 3.81 Cases should be dealt with fairly and thoroughly but also as quickly as is practical, avoiding all unnecessary delays. 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.
- 3.82 The aim should be for unsubstantiated or malicious allegations to be resolved within one week.
- 3.83 Where the initial consideration decides that the allegation does not involve a possible criminal offence it will be for the designated senior manager to deal with it, although if there are concerns about child protection, the designated senior manager should discuss them with the local authority designated officer(s) and Children's Services. In such cases, if the nature of the allegation does not require formal disciplinary action, the designated senior manager 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. The BDMAT HR team must be consulted about all disciplinary hearings.

4.0 Responding to an allegation or concern

An allegation against a member of staff may arise from a number of sources (for example, a report from a child, a concern raised by another adult in the

organisation, or a complaint by a parent). It may also arise in the context of the member of staff and their life outside work.

4.1 Initial action by the person receiving or identifying an allegation or concern

The person to whom an allegation or concern is first reported should treat the matter seriously and keep an open mind. They should:

- make 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
- sign and date the written record
- immediately discuss the issue with their designated senior manager (as identified in point 2 of this policy)
- It is essential that this person to whom an allegation or concern is first reported does **NOT** investigate or ask leading questions, make assumptions or offer alternative explanations, or promise confidentiality (although it is acceptable to provide assurance that the information will only be shared on a 'need to know' basis)

4.2 Initial action by the designated senior manager

4.21 When informed of a concern or allegation that appears to meet the thresholds outlined in this procedure (see point 1), the designated senior manager should:

- obtain written details of the concern/allegation, signed and dated by the person receiving the allegation (not the child/adult making the allegation)
- approve and date the written details
- record any information about times, dates and location of incident/s and names of any potential witnesses
- record discussions about the child and/or member of staff, any decisions made, and the reasons for those decisions

4.22 They should **NOT** investigate the matter or interview the member of staff, child concerned or potential witnesses. Please see point 8 of this policy on when and how to inform the member of staff.

4.23 Keeping Children Safe in Education states that before contacting the LADO the school should conduct basic enquiries in line with local procedures to establish facts and to help determine whether there is any foundation to the allegation, being careful not to jeopardise any potential future police investigation. For example, whether:

- The individual was in the school at the time of the allegations
- The individual did or could have come into contact with the child

- There are any witnesses (remember these must not be spoken to at this point)
- There is any CCTV footage

4.24 The designated senior manager must inform the relevant Local Authority Designated Officer (LADO) for their area **within one working day**. Referrals should not be delayed in order to gather information and a failure to report an allegation or concern in accordance with procedures is a potential disciplinary matter.

4.25 If an allegation requires immediate attention, but is received outside normal office hours, the designated senior manager should consult the local authority children's social care emergency duty team or local police and inform the Local Authority Designated Officer (LADO) as soon as possible.

5.0 Initial consideration by the designated senior manager and the Local Authority Designated Officer (LADO)

5.1 There are up to three strands in the consideration of an allegation:

- A police investigation of a possible criminal offence
- Social care enquiries and/or assessment about whether a child is in need of protection or services
- Consideration by an employer of disciplinary action

5.2 The Local Authority Designated Officer (LADO) and the designated senior manager should consider what action should be taken.

5.3 If there is cause to suspect that a child is suffering, or is likely to suffer, significant harm, the Local Authority Designated Officer (LADO) and the designated senior manager should consider immediate safeguarding action and should ensure a DSL makes a referral to local authority children's social care so that they can initiate a section 47 enquiry and convene a strategy meeting/discussion (the Local Authority Designated Officer (LADO) is likely to be involved in the section 47 enquiry. If this is not the case, the progress and outcome of any section 47 enquiry should be communicated to the Local Authority Designated Officer (LADO) whilst there is an on-going allegation process).

5.4 The Local Authority Designated Officer (LADO) and the designated senior manager should then consider whether further details are needed in order to establish whether the allegation is false or unfounded. Care should be taken to ensure that the child is not confused as to dates, times, locations, or identity of the member of staff.

5.5 Where required, the Local Authority Designated Officer (LADO) will convene a multi-agency **evaluation meeting / discussion** to consider, oversee and review any investigatory processes in relation to allegations (in some parts of the wider

West Midlands these evaluation meetings/discussions are simply referred to as strategy meetings/discussions). The Local Authority Designated Officer (LADO) will usually chair these meetings.

- 5.6 The evaluation meeting/discussion may, where appropriate, be linked to a section 47 strategy meeting/discussion. In these cases, a manager from local authority children's social care will usually chair the meeting.

6.0 Contacting the police

- 6.1 The police must be consulted about any case in which a criminal offence may have been committed. If the threshold for significant harm is not reached, but a police investigation might be needed, the Local Authority Designated Officer (LADO) should immediately inform the police and convene an evaluation meeting/discussion, to include the police, designated senior manager and other agencies involved with the child.

7.0 Informing the parent(s) and child

- 7.1 The Local Authority Designated Officer (LADO) will advise the designated senior manager whether or not informing the parents of the child involved will impede the disciplinary or investigative processes. If it is agreed that the information can be fully or partially shared, the designated senior manager will inform the parent(s). In some circumstances, however, the parent(s) may need to be told straight away (for example, if a child is injured and requires medical treatment).
- 7.2 The processes involved should be explained to the parent(s), and the child if sufficiently mature, and they should be kept informed about the progress of the case and of the outcome where there is no criminal prosecution. This will include the outcome of any disciplinary process, but not the deliberations of, or the information used in, a hearing.

8.0 Informing the accused person

- 8.1 The designated senior manager should seek advice from the Local Authority Designated Officer (LADO), the police and/or local authority children's social care about how much information should be disclosed to the accused person.
- 8.2 Subject to restrictions on the information that can be shared, the designated senior manager in consultation with the BDMAT HR team should, as soon as possible, inform the accused person about the nature of the allegation, how enquiries will be conducted and the possible outcome (for example, disciplinary action, dismissal or referral to the DBS or regulatory body).
- 8.3 The accused member of staff should:

- be treated fairly and honestly and helped to understand the concerns expressed and processes involved
- be kept informed of the progress and outcome of any investigation and the implications for any disciplinary or related process
- if suspended, be kept up to date about events in the workplace

9.0 Informing Ofsted

- 9.1 Ofsted should be informed of any allegation or concern made against a member of staff in any day care establishment for children under 8 or against a registered child minder. They should also be invited to take part in any evaluation meeting/discussion.
- 9.2 Ofsted should also be informed of all allegations made against a foster carer, prospective adopter, or member of staff in a residential childcare facility.

10.0 Position of Trust or Evaluation meeting/discussion

- 10.1 A Position of Trust (PoT) or evaluation meeting/discussion should take place **within one working day** of the designated senior manager becoming aware of the allegation. The LADO will arrange this meeting and Chair it. More information is available in point 12 of this policy.

11.0 Professional representation

- 11.1 The Position of Trust (PoT) or evaluation meeting/discussion should involve all individuals who hold information relevant to the investigation of the allegation. This may include:
- The relevant Local Authority Designated Officer (LADO)
 - Social care manager (to chair if linked with a section 47 strategy meeting)
 - Relevant social worker and their manager
 - Detective sergeant
 - The Designated Health Professional from the relevant CCG (this is essential if an allegation concerns a health agency worker/professional)
 - Human resources representative
 - Legal adviser where appropriate
 - Headteacher of the school if the allegation involves school based staff
 - Senior representative of the Birmingham Diocesan Multi-Academy Trust (normally the CEO but may be the Head of School Support or the Chair of BDMAT)
 - Manager from the fostering service provider when an allegation is made against a foster carer
 - Supervising social worker when an allegation is made against a foster carer

- Those responsible for regulation and inspection where applicable (for example, CQC, GMC or Ofsted)
- Where a child is placed or resident in the area of another authority, representative(s) of relevant agencies in that area
- Complaints officer if the concern has arisen from a complaint

12.0 Purpose of the Position of Trust (PoT) or evaluation meeting/ discussion

12.1 The Position of Trust (PoT) or evaluation or strategy meeting/discussion should be used to:

- Share all relevant information about the person who is the subject of the allegation and about the alleged child victim (including any previous allegations or concerns)
- Plan the investigation/enquiries and set timescales for tasks to be undertaken.
- Agree how progress will be monitored by the Local Authority Designated Officer (LADO)
- Consider whether any other children are affected by the allegations (for example, any children of the accused, or other children in the organisational setting)
- Consider the support needs of any children affected and any action that needs to be taken to provide immediate protection or safeguard any children during the investigation
- Determine any action that needs to be taken in respect of any other children identified including the need for a section 47 enquiry
- Decide how regular information and support will be provided to the child and family and by whom
- Ensure that the person who is the subject of the allegation is kept informed and supported
- Plan all interviews and agree who should undertake them so that there is no confusion between a criminal investigation, section 47 enquiries and disciplinary processes
- Consider whether circumstances require the accused to be suspended from contact with children in order to inform the employer's decision about this issue (including whether a foster carer's approval should be suspended and the implications for other children in the placement). This may change as the investigation progresses and should be reviewed regularly
- Address any issues that are likely to arise (for example, media interest, resource implications)

12.2 A follow up meeting/discussion should be held to ensure that all tasks have been completed, including any referrals to the DBS if required. Where appropriate this

follow up meeting will agree an action plan for future practice based on lessons learnt.

13.0 Allegations against staff in their personal lives

13.1 If an allegation or concern arises about the behaviour of a member of staff, director, governor or volunteer outside of their work, and this may present a risk of harm to children for whom the member of staff is responsible, the general principles outlined in these procedures will still apply.

13.2 The evaluation or strategy meeting/discussion should decide whether the concern justifies:

- approaching the Birmingham Diocesan Multi-Academy Trust for further information, in order to assess the level of risk of harm
- inviting the appropriate senior designated manager in Birmingham Diocesan Multi-Academy Trust to a further evaluation or strategy meeting/discussion about dealing with the possible risk of harm

13.3 If the member of staff lives in a different authority area to that which covers their workplace, the LADO should liaise between the relevant agencies in both areas and a joint evaluation or strategy meeting/discussion convened.

13.4 In some cases, an allegation of abuse against someone closely associated with a member of staff (for example, partner, member of the family or other household member) may present a risk of harm to children for whom the member of staff is responsible. In these circumstances, an evaluation or strategy meeting/discussion should be convened to consider:

- the ability and/or willingness of the member of staff to adequately protect any children
- whether measures need to be put in place to ensure their protection
- whether the role of the member of staff is compromised

14.0 Record keeping

14.1 Details of allegations following an investigation that are found to have been malicious or false should be removed from personnel records unless the individual gives their consent for retention of the information.

14.2 However, for all other allegations, i.e. substantiated, unfounded and unsubstantiated designated senior managers in the Birmingham Diocesan Multi-Academy Trust must keep a clear and comprehensive summary of the case record on the person's confidential personnel file. The record should include:

- A clear and comprehensive summary of the allegation

- Details of how the allegation was followed up and resolved
- A note of action taken, decisions reached and the outcome i.e. substantiated, unfounded or unsubstantiated
- A copy provided to the person concerned, where agreed by the local authority children's social care or the police
- A declaration on whether the information will be referred to in any future reference

- 14.2 The purpose of the record is to enable accurate information to be given in response to any future request for a reference if the person has moved on. It will provide clarification where a future DBS request reveals non convicted information and will help to prevent unnecessary reinvestigation if an allegation re-surfaces after a period of time. In this sense it may serve as a protector to the individual themselves, as well as in cases where substantiated allegations need to be known in order to safeguard future children.
- 14.3 The record should be kept at least until the person reaches normal retirement age or for ten years if longer. The record will need to be transferred from the personnel file to a secure place if the person leaves the Trust as personnel records are only maintained for 6 years after they leave our employment.
- 14.4 For more information on the procedures for staff in schools and educational establishments, see *Keeping Children Safe in Education*.

15.0 Monitoring progress

- 15.1 The Local Authority Designated Officer (LADO) should monitor and record the progress of each case, either fortnightly or monthly depending on its complexity. This could be through additional evaluation or strategy meetings/discussions or direct liaison with the police, local authority children's social care, or the Birmingham Diocesan Multi-Academy Trust, as appropriate. Where the target timescales cannot be met, the Local Authority Designated Officer (LADO) should record the reasons.
- 15.2 The Local Authority Designated Officer (LADO) should keep comprehensive records in order to ensure that each case is being dealt with efficiently and that there are no undue delays. The records will also assist the LSCBs to monitor and evaluate the effectiveness of the procedures for managing allegations and provide statistical information to central government as required.
- 15.3 If a police investigation is to be conducted, the police should set a date for reviewing its progress and consulting the Crown Prosecution Service about continuing or closing the investigation or charging the individual. Wherever possible, this should be no later than four weeks after the evaluation or strategy meetings/discussions. Dates for further reviews should also be agreed, either fortnightly or monthly depending on the complexity of the investigation.

16.0 Outcome of allegation investigations

- 16.1 The evaluation or strategy meeting/discussion should take in to account the following definitions when determining the outcome of allegation investigations:

Substantiated: there is sufficient identifiable 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.

Unsubstantiated: this is not the same as a false allegation. It means that there is insufficient evidence to either prove or disprove the allegation: the term therefore does not imply guilt or innocence.

16.2 Unsubstantiated, false, or malicious allegations

a. Where it is concluded that there is insufficient evidence to substantiate an allegation, the chair of the evaluation or strategy meeting/discussion should prepare a separate report of the enquiry and forward this to the designated senior manager of the Trust to enable them to consider what further action, if any, should be taken.

b. False allegations are rare and may be a strong indicator of abuse elsewhere which requires further exploration. If an allegation is demonstrably false, the Birmingham Diocesan Multi-Academy Trust, in consultation with the Local Authority Designated Officer (LADO), should refer the matter to local authority children's social care to determine whether the child is in need of services, or might have been abused by someone else.

c. If it is established that an allegation has been deliberately invented, the police should be asked to consider what action may be appropriate.

16.3 Substantiated allegations and referral to the DBS

a. If an allegation is substantiated the Local Authority Designated Officer (LADO) should discuss with the designated senior manager whether a referral should be made to the Disclosure and Barring Service (DBS). The designated senior manager should make this referral, but the Local Authority Designated Officer (LADO) has overall responsibility to ensure the referral is made in a timely manner.

b. The designated senior manager has a legal requirement to make a referral to the DBS where they think that an individual has engaged in conduct that has harmed (or is likely to harm) a child; or if a person otherwise poses a risk of harm to a child.

c. The Disclosure and Barring Service (DBS) was established under the Protection of Freedoms Act 2012 and merges the functions previously carried out by the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA).

d. The following groups have a **legal duty to refer** information to the DBS:

- Regulated activity suppliers (employers and volunteer managers);
- Personnel suppliers; and
- Groups with a 'power to refer'. This includes:
 - Local authorities (safeguarding role)
 - Health and Social Care trusts
 - Education and Library Boards
 - Keepers of registers (for example, General Medical Council, Nursing and Midwifery Council)
 - Supervisory authorities (for example, Care Quality Commission, Ofsted)

e. If the person being referred to the DBS is a teacher in England, they should also be referred to the Teaching Regulation Agency which is part of the Department for Education.

17.0 Disciplinary process

17.1 The Local Authority Designated Officer (LADO) the designated senior manager and the CEO/BDMAT HR team should discuss whether disciplinary action is appropriate in all cases where:

- It is clear at the outset, or decided by an evaluation or strategy meeting/discussion, that a police investigation or section 47 enquiry is not necessary; or
- The designated senior manager within Birmingham Diocesan Multi-Academy Trust or the Local Authority Designated Officer (LADO) is informed by the police or the Crown Prosecution Service that a criminal investigation and any subsequent trial is complete, or that an investigation is to be closed without charge, or a prosecution discontinued.

17.2 The discussion should consider any potential misconduct or gross misconduct on the part of the member of staff, and take into account:

- information provided by the police and/or local authority children's social care
- the result of any investigation or trial
- the different standard of proof in disciplinary and criminal proceedings

17.3 If disciplinary action is taken it should follow the disciplinary procedure of the Birmingham Diocesan Multi-Academy Trust.

18.0 Sharing information for disciplinary purposes

- 18.1 Wherever possible, police and children's social care should, during the course of their investigations and enquiries, obtain the consent of the person who is the subject of the investigation to provide the designated senior manager within Birmingham Diocesan Multi-Academy Trust and/or regulatory body with statements and evidence for disciplinary purposes. The designated senior manager within Birmingham Diocesan Multi-Academy Trust should be notified if consent is not given so they can prepare to obtain this information at the end of the criminal process.
- 18.2 If the police or Crown Prosecution Service decide not to charge, or decide to administer a caution, or the person is acquitted, the police should pass all relevant information to the designated senior manager within Birmingham Diocesan Multi-Academy Trust without delay.
- 18.3 If the person is convicted, the police should inform the designated senior manager within Birmingham Diocesan Multi-Academy Trust and the LADO straight away so that appropriate action can be taken.

19.0 Learning lessons

- 19.1 At the conclusion of the process, the designated senior manager within Birmingham Diocesan Multi-Academy Trust and the Local Authority Designated Officer (LADO) should review the circumstances of the case to determine whether there are any improvements to be made to the organisation's procedures or practices.

20.0 Low Level Concerns

- 20.1 How the trust manages low level concerns which do not meet the harm threshold can be found in the [Staff Code of Conduct](#).
- 20.2 All designated senior managers are advised to seek advice from the LADO before determining if the harm threshold has been met.
- 20.3 In compliance with Keeping Children Safe in Education low-level concerns should not be included in references unless they relate to issues which would normally be included in a reference, for example, misconduct or poor performance. It follows that a low-level concern which relates exclusively to safeguarding (and not to misconduct or poor performance) should not be referred to in a reference.