

**LADO Protocol**

|  |  |
| --- | --- |
| Version & Policy Number | v1 |
| Guardian | Rebecca Wilshire |
| Date Produced | 01st November 2016 |
| Next Review Date | October 2017  |

1. **Introduction**
	1. The national requirement for local authorities to appoint a designated officer (LADO) to manage allegations against adults who work with children was introduced in Working Together (2006 & 2013) and in Safeguarding Children and Safer Recruitment in Education (2006), Managing Allegations Department for Children, School and families (2009).
	2. Further guidelines can be found in the publication Dealing with Allegations of Abuse against Teachers and Other Staff (July 2011).
	3. Local allegations procedures are contained in the Leicestershire & Rutland Local Safeguarding Children’s Board (LSCB) Policies and Procedures at Chapter 7.2.
	4. The LADO responsibility sits with the Quality Assurance Manager within the Safeguarding Team in Rutland County Council. The Senior Manager for LADO in this organisation is the Head of Safeguarding.
2. **Guidance**
	1. When allegations arise against a person working with children the employer should follow the procedures outlined in Working Together to Safeguard Children (2013). The procedures should be used when an allegation is made that an adult has:
		* Behaved in a way that has harmed, 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 s/he is unsuitable to work with children.
3. **Statutory Framework**
	1. Working Together (2006 & amended 2013) states that:

*‘All organisations that provide services for children or provide staff or volunteers to work with or care for children, should operate a procedure for handling such allegations that is consistent with guidance and should identify a Senior Manager within the organisation to whom all allegations or concerns are reported…’*

* 1. Underlying principles are:
		+ The welfare of the child is paramount.
		+ Adults about whom there are concerns should be treated fairly and honestly and should be provided with support.
		+ It is the responsibility of all adults to safeguard and promote the welfare of children and young people. This responsibility extends to a duty of care for those adults employed, commissioned, or contracted (including students and those on work experience) to work with children and young people.
1. **Key Roles**

4.1 Working Together identifies key roles essential to an effective process for managing allegations, particularly the Local Authority Designated Officer (LADO) and the Senior Manager (SM).

4.2 Local Authority Designated Officer (LADO)

This role relates to the management and oversight of individual cases. The LADO should:

* Provide advice and guidance to employers, voluntary and community organisations;
* Liaise with the police; and
* Monitor the progress of all cases to ensure that they are dealt with as quickly and consistently as possible through the use of a fair and thorough process.

4.3 Senior Manager within the organisation/Employing agency (SM)

The Senior Manager within the organisation raising the concern is the senior person to whom all allegations or concerns are reported and has overall responsibility for:

* Ensuring procedures are properly applied and implemented; and
* Provides advice, information and guidance for staff within the organisation.
1. **Exercising professional judgement**

5.1 Throughout the process for managing allegations or concerns, the Senior Manager will need to exercise their professional judgement. It is important those managers:

1. Acknowledge any lack of expertise or information
2. Keep an open mind until a conclusion is reached
3. Consider other options or alternatives
4. Know and act in accordance with the law
5. Know and apply appropriate procedures
6. Consider appropriate guidance
7. Take account of all relevant factors
8. Give each factor appropriate weight
9. Apply the duty of care
10. **Confidentiality and information-sharing**
	1. The Data Protection Act and the Human Rights Act are the two main legislative frameworks governing how, what and in what circumstances information may be shared.
	2. Disclosure of any confidential information should always be appropriate for the purpose and only to the extent necessary to achieve that purpose
11. **The Process**
	1. A call may come via the Duty Team. In these cases the Duty Worker should capture all relevant data relating to the allegation on the LADO Enquiry and Referral Form (appendix 1).
	2. Where the call comes in direct to the LADO, the LADO will record relevant data on the LADO Enquiry and Referral Form.
	3. The referrer will in most circumstances be asked to complete a referral form to ensure the referral has been received in writing. This allows for LADO to ensure accurate information has been taken from the referrer.
	4. Referral taken verbally will be processed to ensure no delay, however written referral will still be expected within 24 hours.
	5. The process of managing allegations starts where information comes to the attention of a LADO which suggests that an adult working with children may have:
* 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/she is unsuitable to work with children.

7.6 Concerns or allegations about the behaviour of an adult will have been brought to the attention of a Senior Manager within an organisation or responsible agency in a variety of ways. For example:

* An allegation made directly by a child or parent;
* An allegation made by a colleague or member of staff;
* Information from police or local authority social care;
* Information from a third party or the general public;
* Information disclosed anonymously or online; or
* Concerns generated through an employment relationship.

7.7 Where there is no employer, the allegation should nevertheless be brought to the attention of the LADO.

1. **When to contact the Local Authority Designated Officer (LADO)**
	1. Working Together states that: ‘*it is important to ensure that even apparently less serious allegations are seen to be followed up, and that they are examined objectively by someone independent of the organisation concerned.*’
	2. The Senior Manager/employing agency should ensure that a factual account of the allegation is recorded, dated and signed. If possible, a chronology of events initiated and any other key information identified. No attempts should be made to investigate further before discussion with the LADO.
	3. Employers may also seek the advice of the LADO where an employee’s behaviour is a matter for concern to his/her manager because it compromises or may be seen to comprise the reputation and ability of the organisation to safeguard children and young people. Some examples of this may be where an individual has:
2. Contravened or has continued to contravene any safe practice guidance given by his/her organisation or regulatory body
3. Exploited or abused a position of power
4. Acted in an irresponsible manner which any reasonable person would find alarming or questionable given the nature of work undertaken
5. Demonstrated a failure to understand or appreciate how his or her own actions or those of others could adversely impact upon the safety and well-being of a child
6. Demonstrated an inability to make sound professional judgements which safeguard the welfare of children
7. Failed to follow adequately policy or procedures relating to safeguarding and promoting the welfare of children
8. Failed to understand or recognise the need for clear personal and professional boundaries in his or her work
9. Behaved in a way in his or her personal life which could put children at risk of harm
10. Become the subject of criminal proceedings not relating to a child
11. Become subject to enquiries under local child protection procedures
	1. Behaved in a way which seriously undermines the trust and confidence placed in him or her by the employer. If the circumstances are those outlined in 8.3, then the advice given may be that this is a conduct issue and requires internal investigation. If the advice is that this is an internal conduct issue, this will still be recorded on the spreadsheet and this should be noted as the outcome.
12. **Discussion with LADO**
	1. The initial discussion/evaluation with the LADO - this should occur as soon as possible and, as stated within Working Together 2013, should be within 24 hours.
	2. The purpose of an initial discussion is for the LADO and the Senior Manager to consider the nature, content, and context of the allegation and agree a course of action. As stated in 7.1-7.4, referral concerns will have been taken prior to this and the referrer asked submit this in writing.
	3. A distinction has to be made between complaints and allegations. Referral to LADO is based on the criteria set out above in section 2. This reduces the requirement for Strategy Meetings for less serious allegations, but does not lessen our safeguarding responsibilities.

For example: *The LADO is contacted by a Head Teacher following a report by a pupil that a teacher had caused a bruise on their arm.*

*Previously this would have probably resulted in a Strategy Meeting. The meeting would involve the Head Teacher, Human Resources, the LADO, one of the Education Safeguarding Officers and a Police Officer. A plan for an investigation would be devised. The outcome of the investigation would then be reviewed at a Review Strategy Meeting. The Review Strategy Meeting might then hear that the teacher had separated two fighting pupils and in doing so had accidentally caused a bruise. In such cases the bruise may be considered a consequence of reasonable force being deployed to protect a pupil and the outcome of the Strategy Meeting would be ‘Unsubstantiated’ and either an internal process followed or no further action, once satisfied there are no safeguarding concerns connected.*

* 1. This 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, and the manager will then decide how best to proceed within their organisation and record the outcome of the discussion.
	2. For all other cases, the discussion will then focus on agreeing a course of action including deciding whether the information meets agreed thresholds to hold a Strategy Meeting under safeguarding procedures and whether suspension of the adult is appropriate. The power to suspend rests with the employer alone and it cannot be required by another agency, although the employer should have regard to the views of investigative agencies if involved.
	3. **Use of suspension**

Working Together states that suspension should be considered in every case where:

* *There is cause to suspect a child is at risk of significant harm;*
* *The allegation warrants investigation by the police; or*
* *The allegation is so serious that it might be grounds for dismissal.*
	1. Suspension should not be seen as an automatic response to an allegation or imposed as a ‘knee jerk action’. In some cases it will not be immediately obvious that suspension is appropriate and the need for this course of action may only become clear after information has been shared and discussed with other agencies and the employer’s Human Resources provider.
1. **Agreeing next action**
	1. **No Further Action**

Where no further action is required due to threshold not being met (usually where advice has been sort from the LADO). The LADO will record the discussion and outcome and the Senior Manager will equally record and follow up as per their own internal processes.

* 1. **LADO Meeting**
		1. If the information given about an adult’s behaviour does not require a Strategy Meeting under Section 47 or immediate intervention, a meeting could be called to evaluate jointly the level of concern and to determine whether the person’s suitability to continue working with children is in question.
		2. The LADO will convene a LADO Meeting within 3 days inviting the key agencies to discuss the concerns raised.
		3. The LADO will retain overall management of the process (including the monitoring of cases which have been referred back to the employer for internal resolution) until the case reaches its conclusion and will ensure that accurate records are kept on electronic files.
		4. In reaching a judgement on an allegation, the Senior Manager and LADO, in consultation with other professionals, should specify and record their concerns clearly indicating why the behaviour may be inappropriate and identifying any potential risk to a child. A written record of this discussion and the agreed outcomes should be produced by the LADO and shared with the Senior Manager. The employee should be informed of the outcome in writing subject to any multi-agency recommendations to the contrary.
		5. In consultation with the LADO the employer will decide whether further disciplinary investigation is necessary and whether there is a need to suspend the adult, or whether suitable alternatives to suspension should be used.
		6. Should a disciplinary investigation be decided upon the meeting will nominate the investigating officer and agree timescales and actions. The LADO who will retain overall responsibility to monitor the progress of the investigation and provide advice and support when required or requested.
		7. Outcome will be recorded on the LADO spreadsheet/register and any minutes saved in electronic file (see appendix 2)
	2. **Section 47 Strategy Meeting**
		1. If, from the information received, the LADO decides that the threshold for harm has been met, or that a criminal act has taken place, or that the person’s behaviour may indicate that he/she is unsuitable to work with children or young people, the LADO will liaise with key agencies to organise a strategy discussion.
		2. It is important that the employer is represented - preferably by the Senior Manager and also, where possible, a representative from the employer’s HR service. It is also recommended that police, social care and any other agencies or organisations involved should be present.
		3. The Strategy discussion should:
1. Share all relevant information about the allegation in question.
2. Discuss any previous allegations or other concerns.
3. Review the need for involvement of children’s social care or the police.
4. Consider whether the person’s suitability to continue working with children in his or her current position has been called into question.
5. Plan any enquiries needed, allocate tasks and set timescales.
6. Identify a lead contact manager within each agency.
7. Decide what information can be shared with whom and when.
8. Agree timescales for actions and/or dates for further meetings.
9. Consider what advice and support should be made available to the member of staff and child/family.
10. Consider any other factors that may affect the management of the case e.g. media interest, managing confidentiality.
11. Where the allegation relates to an individual who is not an employee, the meeting should determine who will take the lead in any subsequent action.
12. Those invited to participate in the Strategy Meeting are advised to bring all relevant information including:
	1. Relevant details of the employee and the child and their family.
	2. Information and contact details of any possible witnesses.
	3. Any other relevant concerns or employment issues regarding the employee.
		1. Where the arranged Strategy Meeting has all the relevant agencies round the table, once the child’s needs have been discussed, the second part of the meeting (or a second consecutive meeting, allowing people to leave) should be used to discuss what should happen to the alleged member of staff, rather than setting up a separate meeting for this at a later date.
		2. Process and Templates for meetings are contained within the appendices as follows: appendix 2 for Complex Strategy Meeting (CSM); appendix 3 for initial meetings; and appendix 4 for review meetings.
13. **Outcomes (Meanings)**
	1. **Unsubstantiated**

An unsubstantiated allegation means that there is insufficient identifiable evidence to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

11.2 **Unfounded**

The term ‘unfounded’ means that there is no evidence or proper basis which supports the allegation being made, or there is evidence to prove that the allegation is untrue. There is the possibility that the allegation may be malicious (see below), but it might also indicate that the person making the allegation had misinterpreted the incident or was mistaken about what he/she saw, or was not aware of all the circumstances.

**11.3 Malicious**

The term ‘malicious’ implies that an allegation, either wholly or in part, has been made with a deliberate intent to deceive or cause harm to the person subject to the allegation. For an allegation to be classified as malicious, it will be necessary to have evidence to prove the intention to cause harm. Care should be taken in dealing with such allegations as some facts may not be wholly untrue. Some parts of an allegation may have been fabricated or exaggerated but elements may be based on truth.

11.3.1 Great care should be taken in dealing with allegations that might appear to be unfounded or malicious. For example, with allegations considered unfounded:

* A child or young person may make an allegation in an attempt to draw attention to abuse emanating from another source within his/her family or community.
* A parent may make an allegation against a professional in an attempt to evade responsibility for an injury to his/her child.
* A pupil may make an allegation against a teacher in order to deflect attention away from an incident of behaviour management.
* A parent, in dispute with a school, may make an allegation against a member of staff in order to strengthen their case.

For example, with allegations considered Malicious:

* A colleague may make a malicious allegation in an attempt to discredit a member of staff.

11.3.2 Complaints and allegations against members of staff should always be viewed objectively. The circumstances leading up to the complaint can often be complicated and the outcome far from certain. Completely vexatious allegations are rare, but such descriptions, along with terms such as unfounded, unsubstantiated, and malicious are often used in the same context. The meanings, however, are very different and it is important for staff to understand the distinction between them and avoid using generalisations that might be incorrect or misleading.

**11.4 False**

There is sufficient evidence to disprove the allegation.

**11.5 Substantiated**

There is sufficient identifiable evidence to prove the allegation.

1. **Disciplinary Investigation**
	1. Evidence must be gathered by the employer which establishes, on the balance of probabilities, what behaviour or incident led to the allegation or concern. In those cases where a disciplinary investigation follows an initial criminal investigation prior agreement should have been reached that witness statements taken by the police will be shared with the employer for use in potential disciplinary processes.
	2. When a criminal investigation has not been initiated and no witness statements are available, advice should be taken from the LADO with regard to obtaining and using child witness statements.
	3. At the conclusion of the disciplinary investigation the employer must form a view about whether there are grounds on which the behaviour of the individual should be considered within a disciplinary hearing.
	4. Where no case for a hearing has been established the employer should discuss with the LADO what options would be appropriate to support the member of staff (and the child concerned if this applies.)
	5. In consultation with the LADO, the Senior Manager will decide whether a referral will be made to the Disclosure and Baring Service (DBS) and to any relevant professional body, e.g. HCPC in relation to social work professionals.
2. **Support for child/family**
	1. Children and families involved in the allegation should be provided with any necessary information regarding independent and confidential support, advice, or representation.
	2. Parents or carers of the child should always be kept informed of the process of an investigation by a nominated person (a nominated person will be identified within the first strategy meeting). The detail of the information considered by the disciplinary panel and its deliberations cannot, however, normally be disclosed.
	3. Parents or carers, and the child where appropriate, should be told the outcome as soon as possible after the panel has reached its decision.
3. **Support for the Individual**
	1. Employers have a duty of care to their workers and should act to manage and minimise the stress inherent in the allegations and any disciplinary process.
	2. Individuals should be informed of concerns or allegations as soon as possible by the employer (where there is no employer the appropriate person will be determined at the strategy meeting) and given an explanation of the likely course of action, unless there is an objection by children’s social care or the police. Individuals should be advised to contact their trade union representative, if they have one, and given access to welfare counselling or medical advice where this is provided by the employer.
	3. 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.
	4. When an employee returns to work, arrangements should be made to facilitate his or her reintegration. This may involve informal counselling, guidance, support, reassurance and help to rebuild confidence in working with children and young people.
	5. It is important for employers to take into account the emotional effects that allegation investigations can sometimes bring to a workplace (regardless of the outcome or whether staff are involved or not) and for those organisations that do not have good HR/aftercare to consider that staff may have unresolved feelings and will need support.

**15. MAPPA (Multi-Agency Public Protection Arrangements) / MARAC (Multi-Agency Risk Assessment Conference)**

15.1 Where the individual is known to MAPPA such details should be shared by the MAPPA chair with the LADO where the person may pose a risk to children via secure email when the case has been presented at MAPPA (or before if information from LADO is required) (appendix 5).

* 1. The [Criminal Justice Act 2003](http://www.legislation.gov.uk/ukpga/2003/44/contents) provides for the establishment of Multi-Agency Public Protection Arrangements ("MAPPA") in each of the 42 criminal justice areas in England and Wales. MAPPA is not a statutory body in itself but is a mechanism through which agencies can better discharge their statutory responsibilities and protect the public in a co-ordinated manner. MAPPA allows agencies to assess and manage offenders on a multi-agency basis by working together, sharing information and meeting to ensure that effective plans are put in place. Agencies retain their full statutory responsibilities and obligations at all times. All MAPPA offenders are assessed to establish the level of risk of harm they pose to the public. Risk management plans are then worked out for each offender to manage those risks. These set out the action that needs to be taken to minimise the risk. Some measures that can be considered are:
* Ensuring offenders have suitable accommodation, which can include requiring the offender to reside at a probation run Approved Premises on release.
* Placing controls on the offender's behaviour through strict licence conditions which can include not to have contact with a named individual or not to enter a defined exclusion zone
* Intensive supervision by a probation officer offender manager and/or community public protection police
* Ensure the offender attends identified accredited programmes and other interventions (such as drug and alcohol programmes) aimed at reducing further offending.

Registered sexual offenders who do not comply with the notification requirements can be taken to court by the police and could face a fine and/or up to five years in prison.

All offenders supervised by probation must comply with the conditions of their order or licence. Any failure to do so will result in action being taken. For those on licence, this could mean a return to prison, which can happen within two hours in emergency situations. A failure to comply does not necessarily mean that an offence has been committed; it could be a missed appointment or any behaviour which gives cause for concern <https://mappa.justice.gov.uk>

* 1. The MARAC is held frequently and aims to:
* Share information to increase the safety, health and well-being of victims/survivors, adults and their children
* Determine whether the alleged perpetrator poses a significant risk to any particular individual or to the general community
* Construct jointly and implement a risk management plan that provides professional support to all those at risk and that reduces the risk of harm
* Reduce repeat victimisation
* Improve agency accountability, and
* Improve support for staff involved in high-risk domestic abuse cases.

15.4 Where adults are thought to be a risk to children or vulnerable adults and known to be working in any way (voluntary or paid) with children the LADO should be notified. This will be done through case alerts from the MARAC Social Care Rep.

**16. Recording and Record Retention**

16.1 LADO records and case notes will be recorded and saved in an electronic file, which is locked down and only accessible by key personnel. Where a corresponding child’s record has been opened, this will be cross referenced to the adult details on Liquid Logic as appropriate.

16.2 Record keeping is an integral part of the management of allegations. Complete and accurate records will need to contain information which provides comprehensive details of:

* Events leading to the allegation or concern about an adult’s behaviour
* The circumstances and context of the allegation
* Professional opinions
* Decisions made and the reasons for them
* Any action that is taken

16.3 Employers are required to keep all records pertaining to allegations where these involve a child or young person and, if concerns arise which relate to the welfare or safety of a child or young person, employers are under a legal obligation to disclose information held on record to police or social care agencies

16.4 Records should be kept and maintained at every stage of the process thus ensuring that sound decisions are made on full, accurate, and up-to-date information and the rationale for those decisions can be traced, scrutinised, and justified where necessary. Records relating to allegations which have been found to be without substance, must also be retained and subject to the LA file retention periods.

16.5 A chronology of events will be maintained in electronic file and will show key actions and case overview. Meeting minutes will be saved into electronic files; individuals are entitled to have access to their personal details held as computerised or manual records. Employers have a responsibility, however, to remove personal data about a third party before complying with an access request.

16.6 Working Together states that purpose of record-keeping is to:

* Enable accurate information to be given in response to any future request for a reference.
* Provide clarification in cases where a future DBS Enhanced Disclosure reveals information from the police that an allegation was made but did not result in a prosecution or conviction.
* Prevent unnecessary re-investigation if an allegation resurfaces after a period of time.

16.7 Accurate record keeping and retention also allows for patterns of behaviour which may pose a risk to children to be identified. Throughout the process of managing an allegation it is important that a clear chronology of all discussion and actions is maintained by both the LADO and the Senior Manager or employer.

16.8 The chronology should start when the Senior Manager or the Duty Manager contacts the LADO for an initial consultation about an adult working with children.

**Appendix 1 – LADO Enquiry and Referral Form**

****

**Appendix 2 – Complex Strategy Discussion (procedure and template)**

****

**Appendix 3 – Agenda for CSM (Initial Meeting)**

****

**Appendix 4 – Agenda for Review CSM**

****

**Appendix 5 – MAPPA process regarding LADO**

****

**Appendix 6 – Archiving and Retention Records**

****

**Appendix 7 – LADO Flowchart**

****