

Managing allegations against adults in a position of trust who work for Hartlepool Borough Council with adults who have care and support needs

1. Guidance Statement

- 1.1 The purpose of this guidance is to ensure that all allegations of abuse made against staff or volunteers working with adults are dealt with in a fair, consistent and timely manner.
- 1.2 This guidance deals with any paid or unpaid members of staff in a position of trust working with:
- An adult or adults who have needs for care and support (whether or not the local authority is meeting any of those needs), and who are:
 - experiencing, or are at risk of, abuse and neglect,
 - Unable to protect themselves from either the risk of, or the experience of abuse or neglect¹.

2. Scope

- 2.1 It should be used in respect of all circumstances where there are concerns in regards to a member of staff's:
- Behaviour or conduct in their personal life that might indicate their unsuitability to work with adults;
 - Behaved in a way that has harmed or may have harmed an adult.
 - Possibly committed a criminal offence against or related to an adult.
 - Behaved in a way that indicates they are unsuitable to work with adults.
- 2.2 This guidance deals with any paid or unpaid member of staff in a position of trust working with adults. This includes staff who:
- Work directly with adults;
 - Work in a setting where adults regard them as safe and trustworthy;
 - Have access to sensitive information regarding adults; and /or
 - Are senior managers who have responsibility for appointing people to work with adults.
- 2.3 Types, patterns and different circumstances of abuse and neglect should be considered within the categories identified in the Care Act 2014 i.e. physical abuse, domestic violence, sexual abuse, psychological abuse, financial or material abuse, modern slavery, discriminatory abuse, organisational abuse, neglect and acts of omission and self-neglect. These include concerns relating to inappropriate relationship(s) between members of staff and adults in their care, e.g.
- Having a sexual relationship with an adult in a position of trust even if the relationship appears consensual.
 - The sending of inappropriate text/email messages or images.

¹ The adult experiencing, or at risk of abuse or neglect will be referred to as *adult* for the rest of this guidance.
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- Possession of indecent photographs/pseudo-photographs of vulnerable adults.
- 2.4 A failure to report an allegation or concern in accordance with this procedure is potentially a disciplinary matter.
- 2.5 Staff and volunteers are strongly advised to report any incident involving themselves that could give rise to concern, including the potential for misinterpretation by others.
- 3. Adult Local Authority Designated Officer (LADO) referral**
- 3.1 A LADO should only be undertaken where there has been an allegation made against a member of staff which may affect their role working with adults.
- 3.2 The case/incident should be referred by the designated Senior Manager to the First Contact Team, who will then refer the case to the LADO, who will decide whether the case will be a LADO or a safeguarding.
- 4. Roles and Responsibilities**
- 4.1 The LADO has specific responsibility for:
- Being involved in the management and oversight of individual cases;
 - Providing advice and guidance on managing allegations to employers and voluntary organisations;
 - Liaising with Police and other agencies, where necessary; and
 - Monitoring the progress of cases to ensure they are dealt with as quickly as possible, using a consistent, thorough and fair process.
- 4.2 The Safeguarding Manager and Head of Service in Adult Social Care cover the functions of the LADO in Hartlepool Borough Council.
- 5. Recognising and Responding to an Allegation**
- 5.1 There are a number of sources from which a complaint or allegation might arise, including those from:
- An adult;
 - A parent or carer;
 - A member of the public (including a friend or relative);
 - A colleague (also known as whistle blowing); and
 - A disciplinary investigation.
- 6. Initial Action by Person Receiving or Identifying an Allegation or Concern**
- 6.1 The person to whom an allegation is first reported should treat the matter seriously and keep an open mind. They should **NOT**:
- Instigate an investigation;
 - Investigate or ask leading questions, if seeking clarification;

- Make assumptions or offer alternative explanations; and
- Promise confidentiality or give assurance that the information will only be shared on a need to know basis.

6.2 They **SHOULD**:

- Make a written record of the information, where possible in the informant's own words, including the time, date and place of the incident, persons present and what was said/done;
- Sign and date the written record;
- Immediately report the matter to the designated Senior Manager, or Deputy in their absence, or where the Senior Manager is the subject of the allegation;
 - Refer the allegation to the Duty Team or the Emergency Duty Team, if the concerns arise outside of office hours; and
- If there is an adult/child at risk of suffering significant harm make a referral to Adult or Children's Social Care, respectively.

7. Initial Action by the Designated Senior Manager

7.1 When informed of a concern or allegation the designated Senior Manager should **NOT** attempt to investigate the matter or interview the member of staff, victim or any potential witnesses. They **SHOULD**:

- Obtain written details of the concern/allegation, signed and dated by the person receiving the allegation;
- Acknowledge receipt of and date the written details;
- Record any information about times, dates and location of the incident/s and the name of any potential witnesses;
- Record discussions about the victim and /or member of staff, any decisions made and the reasons for those decisions;
- Report the allegation to the LADO within one working day; and
- If an adult/child has suffered, or is at risk of suffering, significant harm, ensure that a referral to Adult/Children's Social Care has been made.

7.2 Any organisation that receives information regarding a complaint, concern or allegation (including the Police and Social Care Staff) **MUST** report it to the LADO **within one working day**. Reporting should not be delayed in order to gather information. If an allegation is received out of hours and requires immediate attention, the designated Senior Manager should consult HBC's Emergency Duty Team or the Police and inform the LADO as soon as possible.

7.3 Where the LADO receives a complaint or an allegation from sources other than the employer, the LADO should consider what information, if any, should be disclosed to the employer and the pressing need to share information.

8. Initial Consideration by the Designated Senior Manager and the LADO

8.1 There are 3 strands in the consideration of an allegation:

- A Police investigation of a criminal offence;
 - Social Care enquiries and/or an assessment of whether a vulnerable adult/child is in need of protection or services; and
 - Consideration of an investigation under the disciplinary procedures.
- 8.2 The LADO and designated Senior Manager/Deputy **MUST** consider whether or not further details are needed and whether there is evidence or information that establishes that the allegation is false or unfounded. If the allegation is not demonstrably false and there is a cause to suspect that a vulnerable adult or child is suffering or likely to suffer significant harm, the LADO should refer to HBC Safeguarding Team and request a strategy meeting be convened.
- 8.3 The Police **MUST** be consulted about any case in which a crime may have been committed. In circumstances where the criteria for an adult protection referral is not met, but a Police investigation may be needed, the LADO should immediately inform the Police and convene an initial LADO meeting.
- 8.4 Where there are concerns regarding the conduct or behaviour of an individual which raises concerns about their suitability to work with vulnerable adults an initial LADO meeting should be convened. In some circumstances when the action needed to be taken is evident, a discussion between the relevant parties may be appropriate instead of convening a meeting.
- 8.5 The Employer has a responsibility to inform the LADO immediately if an allegation is made. The employer should seek advice from the LADO and the Police about how much information should be disclosed to the accused. Subject to the restrictions on the information that can be shared, the employer should, as soon as possible, inform the accused about the nature of the allegation, how enquiries will be conducted and the possible outcome.
- 8.6 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 process; and
 - If suspended, be kept up to date about events in the workplace and provided with a named contact in the council.
- 9. Informing the Care Quality Commission**
- 9.1 The Care Quality Commission (CQC) is the independent regulator of health and social care services. The CQC has a range of statutory enforcement actions to use where care does not meet the essential standards of quality and safety. The CQC will ensure that it responds to adult safeguarding issues in accordance with the regulatory framework requirements working with commissioners and providers to respond to all adult safeguarding issues in accordance with local policy and procedures.

10. The LADO Meeting

10.1 An initial LADO meeting should be chaired by the LADO and should focus on the individual against whom the allegation has been made. The following is a list of potential participants:

- Relevant member of staff and their Designated Senior Manager/Deputy;
- Police Vulnerability Unit;
- HR representative from the employing organisation/agency;
- Representative from commissioning when an allegation has been made against a service provider; and
- Those responsible for regulation and inspection, where applicable, e.g. CQC.

10.2 The LADO meeting **SHOULD**:

- Consider the allegation and whether any investigation under disciplinary procedure is required;
- Discuss any previous allegations or concerns;
- Decide whether or not a Police investigation is necessary;
- Plan enquiries if needed, allocate tasks and set timescales;
- Decide what information can be shared, with whom and when;
- Consider what support should be made available to the member of staff and anyone who may be affected;
- Ensure that investigations are sufficiently independent;
- Make recommendations where appropriate regarding suspension or alternatives to suspension;
- Identify a lead Contact Manager within each agency;
- Agree procedures for reviewing investigations and monitoring progress by the LADO having regard to target timescales;
- Consider any issues for the attention of senior management (e.g. media interest or resource implications);
- Consider if a referral to the DBS/other regulatory bodies/professional bodies should be made and by whom;
- Consider risk assessments to inform the employer's safeguarding arrangements;
- Where applicable consider the individual's own children/those within their family/any other children/vulnerable adults they have contact with, and whether or not a referral to Social Services should be made regarding their safety; and
- Agree dates for any future LADO meeting necessary.

10.3 If necessary, a subsequent LADO meeting should be held to ensure that all tasks have been completed and where appropriate agree an action plan for future practice based on lessons learned.

10.4 The LADO meeting **SHOULD** decide whether or not the concern justifies:

- Approaching the member of staff's employer for further information, in order to assess the level of harm; and

- Inviting the employer to the LADO meeting.
- 10.5 If the member of staff lives outside the authority area they work in, liaison should take place between the relevant agencies in both areas.
- 10.6 If the allegation will affect the individual's work with vulnerable adults the LADO meeting **SHOULD** consider:
- The ability and/or willingness of the member of staff to adequately protect the vulnerable adults;
 - If measures need to be put in place to ensure their protection; and
 - If the role of the staff member has been compromised.

11. Whistle Blowing

- 11.1 All staff **SHOULD** be made aware of their employer's whistle blowing policy and feel confident to voice concerns about their actions or the attitude of colleagues. 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 LADO.

12. Cross Boundary Considerations

- 12.1 Allegations may be raised about individuals who work within more than one authority. When this occurs the LADO receiving the information should contact the LADO in the area(s) where the individual is also known to work or have contact with vulnerable adults. The LADO receiving the information should offer to attend a LADO meeting in the area(s) to share information and agree any necessary action.

13. Confidentiality

- 13.1 Every effort should be made to maintain confidentiality and guard against publicity whilst an allegation is being investigated or considered. Information should be restricted to those who have a need to know in order to protect vulnerable adults, facilitate enquiries and manage disciplinary processes.
- 13.2 The Police will not provide identifying information to the press or media, until a person is convicted, other than in exceptional circumstances. In such cases, the reason should be documented and partner agencies consulted beforehand.

14. Support

- 14.1 As soon as practicable after the allegation has been received, the accused should be advised to contact their union or professional association. The employing organisation should alert their HR Advisors in order that support can be offered via the organisation's occupational health or wellbeing arrangements and so that procedures can be adhered to.
- 14.2 The employing organisation, together with Adult Social Care and/or the Police, where involved, should consider the impact on any vulnerable adults or children involved in the

allegation and provide appropriate support. Liaison between agencies should consider how the vulnerable adults or children's needs are addressed.

15. Unsubstantiated and False Allegations

- 15.1 Following the initial LADO meeting, if an allegation is determined to be unsubstantiated, the LADO should prepare a separate report of the enquiry and forward it to the designated Senior Manager/Deputy of the employer to enable them to consider what further action, if any, should be taken.
- 15.2 If it is established that an allegation has been deliberately invented, the Police should be asked to consider if it is appropriate to take action against the person responsible.
- 15.3 At the conclusion of a case in which the allegation is unsubstantiated, the employer should review the circumstances of the case to determine whether or not there are any improvements to be made to the organisation's procedures or practice to prevent similar events occurring in the future.

16. Disciplinary Process and Investigation

- 16.1 In all cases, the LADO, the designated Senior Manager/Deputy and the employer's HR representative should discuss if an investigation under disciplinary procedures is necessary. The discussion should consider any potential misconduct or gross misconduct and take into account:
- Information provided by the Police and/or Adult Social Care;
 - The result of any investigation; and
 - The different standard of proof in disciplinary and criminal proceedings.
- 16.2 In the case of supply, casual or volunteer workers the normal disciplinary process may not apply. In these circumstances, the LADO and employer should act jointly with the providing agency, if any, in deciding whether or not to continue to use the person's services, provide future work with vulnerable adults, or whether to make a report for consideration for barring via the DBS/professional body or other action.
- 16.3 If formal disciplinary action is not required the employer should implement any agreed actions arising from the LADO meeting within **5 working days**. If a disciplinary hearing is required and can be held without further investigation, the hearing should be held within **10 working days**. The timescales detailed will be adhered to wherever possible. However, where there are good reasons, for example the lack of availability of the trade union representative, officers or witnesses, each party can request that the other agrees to an extension of the recommended timescales.
- 16.4 If further investigation is needed to decide upon disciplinary action, the employer and the LADO should discuss if the employer has appropriate resources or if the employer should commission an independent investigation because of the nature or complexity of the case or to ensure objectivity. The investigation should not be conducted by a relative or friend of the accused.

- 16.5 The aim of the investigation is to obtain, as far as possible, a fair, balanced and accurate record in order to consider the appropriateness of disciplinary action and/or the individual's suitability to work with vulnerable adults. Its purpose is not to prove or disprove the allegation. The investigating officer should aim to provide a report **as soon as possible**.
- 16.6 On receipt of the report the employer should decide, within **2 working days**, whether or not a disciplinary hearing is needed. If a hearing is required, it should be held within **10 working days**. The timescales detailed will be adhered to wherever possible. However, where there are good reasons, for example, the lack of availability of the trade union representatives, officer or witnesses, each party can request that the other agrees to an extension of the recommended timescale.
- 16.7 If at any stage of the investigation, new information emerges that requires a Safeguarding referral, the investigation should run alongside the Safeguarding. Consideration should be given as to whether or not suspension is appropriate in light of the new information.

17. Suspension

- 17.1 The possible risk to vulnerable adults posed by the accused needs to be evaluated and managed effectively. In some cases this requires the employer to consider suspending the member of staff. Suspension is a neutral act and not automatic. This is a matter for the employer to decide. It should be considered where:
- There is cause to suspect a vulnerable adult or child are or may be at risk of significant harm if the accused continues in their employment;
 - The allegation warrants investigation by the Police;
 - The allegation is so serious that it might be grounds for dismissal;
 - There is cause to suspect that the individual has the potential to intimidate the person(s) whom they know or believe to be involved;
 - There is cause to suspect that the individual may have the potential to destroy or contaminate evidence related to the investigation, whilst at work; and
 - Other circumstances particular to the case that warrant suspension.
- 17.2 The LADO should canvass their views on the risks posed and inform the employer. Only the employer has the power to suspend the accused employee and they cannot be required to do so by HBC or the Police.
- 17.3 If a suspended person is to return to work, the employer should consider what help or support might be appropriate (e.g. phased return to work, the provision of a mentor) and also how to best manage the member of staff's contact with vulnerable adults.

18. Resignations and Settlement Agreements

- 18.1 Every effort should be made to reach a conclusion in all cases even if:
- The individual refuses to co-operate; having been given the opportunity to answer the allegation; and

- It may not be possible to apply disciplinary sanctions if a person's period of notice expires before the process is complete.

18.2 The fact that a person tenders their resignation or ceases to provide their services **MUST NOT** prevent an allegation from being followed up. A so-called 'settlement agreement' by which a person agrees to resign, the employer agrees not to pursue disciplinary action and both parties agree a form of words to be used in any future reference must only be used in exceptional circumstances with Chief Officer approval. In any event, such an agreement will not prevent a thorough Police investigation, where appropriate, nor can it override an employer's statutory duty to make a referral to the DBS.

18.3 The LADO should also advise whether or not it is appropriate to notify a professional body or regulator, for example, the HCPC or the General Medical Council. Any referral, if appropriate, should be made within **1 month**.

19. Record Keeping

19.1 Employers should keep a clear and comprehensive summary of the case. The record should include details of:

- Allegations made;
- Details of how the allegation was followed up and resolved;
- Actions taken; and
- Decisions reached.

19.2 The outcome letter should be retained on the employee's personal file indefinitely. The purpose of the record is to enable accurate information to be given in response to any future request for a reference. It will provide a clarification in cases where a future DBS Disclosure reveals information from the Police that an allegation was made but did not result in a prosecution or conviction. It also prevents unnecessary re-investigation if, as sometimes happens, allegations resurface after a period of time.

19.3 A central record of allegations will be maintained by the LADO on behalf of the LEG partner organisations. The LADO's records will assist LEG to monitor and evaluate the effectiveness of managing allegations and provide statistical information to central government, if required.

20. Monitoring Process

20.1 The LADO should monitor and record the process of each case. This could be by way of review LADO meetings or by direct communication with the Police, Adult Social Care or the employer. Where target timescales cannot be met, the LADO should record the reasons.

20.2 If a Police investigation is to be conducted, the Police should set a date for reviewing its process and consulting with the CPS. Wherever possible this should be no later than **4 weeks** after the LADO meeting. Dates for any further reviews should be agreed either fortnightly or monthly.

21. Actions or Conclusions of a Case

- 21.1 If the allegation is substantiated and the person is dismissed, or the employer ceases to use the person's services (e.g. agency/casual worker), or the person resigns, the LADO should discuss with the employer if a referral should be made to the DBS and/or the HCPC. Consideration will then be given by the professional body as to whether or not the individual should be barred from, or have conditions imposed in respect of, working with vulnerable adults. If a referral is to be made, a named person should be identified to make the referral.
- 21.2 If a referral is made, it should be submitted within **1 month** of the allegation being substantiated.
- 21.3 The employer and the LADO should review the circumstances of each case to determine whether or not there are any improvements to be made to the organisation's procedures and practice.
- 21.4 It is in everyone's best interests to resolve cases as quickly as possible, consistently and with a thorough investigation. Every effort should be made to avoid any unnecessary delay. It is expected that most cases are resolved within **1 month**, although cases which require a criminal prosecution or complex Police investigation are likely to take longer than **3 months**.

Information received that a member of staff has been involved in an incident that may affect their ability to work with adults and potentially committed a crime.

Member of staff receiving/making the allegation must refer to their Senior Manager.

The Senior Manager should:

- Record the allegation/information (dates/times/witnesses);
- Report the allegation/information to the First Contact/DUTY Team.

Early Intervention Team refers the allegation to the LADO **within 1 working day.**

LADO meeting/discussion held with Senior Manager, Police, employer and other relevant agencies to:

- Share information;
- Determine actions; and
- Consider how best to manage risks.

