



POLICIES AND PROCEDURES

**MANAGEMENT OF ALLEGATIONS OF ABUSE
AGAINST STAFF**

JANUARY 2016

LGB Process Completed:	
Date ratified at Trust Board:	
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1 INTRODUCTION

- 1.1 This introduction introduces procedures for dealing with allegations against teachers and other staff, including volunteers and should be used by schools within the Mercia Learning Trust when such allegations arise.
- 1.2 The procedures have been developed as a response to the statutory guidance from the Department for Education (DfE) ***“Keeping Children Safe in Education: Statutory Guidance for Schools and Colleges (July 2015)”***, which replaced “Safeguarding Children and Safer Recruitment in Education (December 2006) and Keeping Children Safe in Education: Statutory Guidance for Schools and Colleges (April 2014).
- 1.3 The relevant legislation covered in the above statutory guidance are:
- The Children Act 1989 and 2004
 - Education Act 2002
 - The Education (Health Standards) (England) Regulations 2003
 - The School Staffing (England) Regulations 2009 as amended by SI 2012/1740 and SI 2013/1940.
 - The Education (School Teachers’ Appraisal) (England) Regulations 2012
 - The Children and Families Act 2014
 - The Police Act 1997 as amended (Criminal Records Regulations) 2002, 2009
 - The Sexual Offences Act 2003
 - Safeguarding Vulnerable Groups Act 2006
 - Protection of Freedoms Act 2012
 - Equality Act 2010
 - The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended
- 1.4 It should also be read alongside *“Working Together to Safeguard Children (updated) March 2015”*
- 1.5 The aim of the procedure is to:
- Ensure allegations are dealt with fairly and in a timely manner.
 - Ensure that where staff are not suitable to work with children that they are prevented from doing so with involvement and notification to relevant bodies
 - Ensure adherence to relevant legislation
 - Involve all the relevant agencies at the correct time
 - Achieve consistent practice throughout all schools within the Mercia Learning Trust
- 1.6 All local authorities have appointed a designated officer (Local Authority Designated Officer – LADO) to oversee the investigation of all allegations and to maintain detailed records of their conduct and the outcomes. Within the

revisions to the statutory guidance within “*Working Together to Safeguard Children March 2015*” “Local Authorities will also have a team of officers who may also be involved in the management and oversight of allegations against people that work with children. Any such officer or team of officers should be sufficiently qualified and experienced to be able to fulfil this role

- 1.7 The Sheffield Safeguarding Children Board (SSCB) has responsibility for ensuring there are effective inter-agency procedures in place for dealing with allegations against teachers and staff who work with children and for monitoring and evaluating the effectiveness of these procedures.
- 1.8 Advice and guidance in respect of individual cases can be accessed by contacting the Safeguarding Children Advisory Service (0114 2053535) and by referring to ‘Working Together to Safeguard Children 2015.’
(www.safeguardingsheffieldchildren.org.uk)
- 1.9 Further information including referral procedures at the Disclosure and Barring Service (DBS) www.disclosure&barring.service

2 APPLICATION

- 2.1 This procedure should be used by all schools within the Mercia Learning Trust.
- 2.2 This procedure applies to all employees that have a contract of employment with schools within the Trust.
- 2.3 Parts of the procedure will be equally applicable to agency workers, contractors and volunteers. Allegations against workers/contractors/volunteers in those categories require the same child protection/police investigatory response. Individuals may be required to stay away from the work base pending investigation. In those circumstances both the contractor or agency and the organisation in which the accused person worked will need to be involved in dealing with the allegation in reaching a decision about whether to continue to use the person’s services in the future and whether to report the person to the Disclosure & Barring Service (DBS).
- 2.4 A number of other trust policies and procedures will have a bearing on the implementation of this procedure eg. Disciplinary Procedure, Code of Conduct, ‘Whistle Blowing’, Dignity at Work, E-safety and the appropriate complaints procedure. It is important that a sound decision is made about which ones apply in an individual case. The Trust’s HR Adviser will advise as appropriate.
- 2.5 Throughout this procedure there is reference to the roles and responsibilities of the Headteacher. Please note that, if the Headteacher is the accused person, then the Chair of Governors (or the designated governor for child protection)

will need to carry out these roles in partnership with a member of the Safeguarding Children Advisory Service and the school's HR provider.

2.6 The procedure is based on the framework for dealing with allegations made against a person who works with children, detailed in Part 4 Keeping Children Safe in Education (July 2015). It caters for cases of allegations that might indicate that a person is unsuitable to continue to work with children in their present position, or in any capacity. It should be applied when there is an allegation that a 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; or
- Behaved towards a child or children in a way that indicates she/he would pose a risk of harm to children.

This would be in connection with his/her employment or voluntary activity, or where:

- Concerns arise about the employee's behaviour with regard to his/her own children.
- Concerns arise about the employee's response to the behaviour or actions in the private or community life of a partner, member of the family or other household member (Disqualification by Association). Where such concerns arise the employee's suitability to work with children will need to be considered.

2.7 There may be up to 3 strands in considering where a concern is identified or when an allegation is made:

- A police investigation of a possible criminal offence
- Enquiries and assessment by Children and Young Persons' Services about whether a child or young person is in need of protection or is in need of services
- Consideration by the school of disciplinary action in respect of the individual.

2.8 Headteachers should be aware that any contact they have with the accused person could jeopardise a police investigation. Headteachers must therefore take advice from the LADO/Team member and their HR provider. Consideration of these matters will also be made during strategy discussions/meeting. The decision about a strategy meeting will be made by the Safeguarding Children Advisory Service.

2.9 Compliance with these procedures should help ensure that allegations of abuse are dealt with expeditiously, consistent with a thorough and fair process.

3 ROLES AND RESPONSIBILITIES

3.1 Sheffield Safeguarding Children Board

Sheffield Safeguarding Children Board (SSCB) has responsibility for ensuring there are effective inter-agency procedures in place for dealing with allegations against people who work with children and for monitoring and evaluating the effectiveness of those procedures.

In order to do this, each SSCB member organisation should identify a named senior officer with overall responsibility for:

- Ensuring that the organisation operates these procedures for dealing with allegations
- Resolving any inter-agency issues
- Liaising with the SSCB on the subject

3.2 The Local Authority

The Local Authority has appointed a designated officer (LADO) who will:

- Be involved in the management and oversight of individual cases
- Provide advice and guidance to employers, including schools and voluntary organisations
- Liaise with the police and other agencies
- Monitor the progress of cases to ensure that they are dealt with as quickly as possible consistent with a thorough and fair process

Revisions to the statutory guidance “Working Together to Safeguard Children March 2015”, confirmed that Local Authorities should have designated a particular officer or team of officers (either as part of multi agency arrangements or otherwise) to be involved in the management and oversight of allegations against people working with children.

3.3 Mercia Learning Trust

The Mercia Learning Trust will:

Use this procedure for dealing with allegations, and all staff/contractors and volunteers should be made aware of these and understand what to do if they receive an allegation against another member of staff or they themselves have concerns about the behaviour of another member of staff. This procedure makes it clear that **all allegations** must be reported straight away, normally to the Headteacher or Child Protection Liaison Teacher (CPLT – who will inform the Headteacher), and the Chair of Governors, to whom reports should be made in cases where the Headteacher is the subject of the allegation or concern.

If an allegation is made against a Governor, the Headteacher may deal with such a complaint, depending on the circumstances. Advice can be sought from the Local Authority Governor's Section, who would become involved in any discussion, along with the LADO/Designated Officer and the Trust's HR Adviser.

4 RECOGNISING AND RESPONDING TO AN ALLEGATION

4.1 Recognising and Responding to an Allegation

There are a number of sources from which a complaint or an allegation might arise including from:

- A child or an adult
- A parent
- A member of the public
- A disciplinary investigation

The Trust has in place policies, procedures and guidance relating to the conduct of their employees. General advice and guidance in respect of allegations and safeguarding issues can be accessed by contacting the Safeguarding Children Advisory Service (0114 2053535) or on their website www.safeguardingsheffieldchildren.org.uk

4.2 Responding to a Complaint or an Allegation

The person to whom an allegation or concern is initially reported should not investigate the matter further but should:

- Treat the matter seriously
- Avoid asking leading questions and keep an open mind
- Communicate with the child (if the complainant) in a way that is appropriate to the child's age, understanding and preferred language or communication style
- Make a written record of the information (where possible in the child's own words), including:
 - When the alleged incident took place (time and date)
 - Who was present
 - What was said to have happened
 - Sign and date the written record
- Report the matter immediately to the **Headteacher** (if the complaint is referred initially to the Child Protection Liaison Officer, it should be reported to the Headteacher or member of the senior leadership team immediately). If the complaint is about the Headteacher, the member of staff must ensure this information is passed onto the Chair of Governors.

Reporting of allegations can include those made by former students who are now adults. Furthermore, if a member of staff is subject to allegations by a child, either in the community or other professional capacity, such situations will also be subject to these procedures.

The Trust has a duty of care to their employees. Headteachers should ensure they provide effective support for anyone facing an allegation and provide the member of staff with a named contact if they are suspended. Support from Occupational Health should also be a consideration. It is essential that any allegation of abuse made against a teacher or other member of staff or volunteer is dealt with very quickly, in a fair and consistent way that provides effective protection for the child but at the same time supports the person who is subject to the allegation.

Maintaining confidentiality is of paramount importance and only those members of staff who need to know should be informed. Such confidentiality should also be maintained outside school and any requests for information from eg. the press should ensure that no details of the specifics of the allegation or the individual under investigation are disclosed. The Education Act 2002 introduced reporting restrictions preventing the publication of any material that may lead to the identification of a teacher who has been accused. The reporting restrictions apply until the point the accused person is charged with an offence, or until the Secretary of State/DBS/NCTL published information about an investigation or decision in a disciplinary case arising from the allegation.

The reporting restrictions also cease to apply if the individual effectively waives their right to anonymity by going public themselves or by giving their written consent for another to do so or if a judge lifts restrictions in response to a request to do so. These provisions commenced on 1 October 2012 with legislation imposing restrictions which makes it clear that 'publication' of material that may lead to the identification of the teacher who is subject of the allegation is prohibited.

Publication includes 'any speech', writing or other communication in whatever form, which is addressed to the public at large or any section of the public. This means that any parent as well who publishes details of the allegation on eg. a social network site would be in breach of the reporting restrictions

5 INITIAL ACTION BY THE HEADTEACHER

- 5.1 Managing allegations need to be applied with common sense and judgement. Many cases may well either not meet the criteria set out above or may do so without warranting consideration of a police investigation or children services investigation. Advice may still be sought from the LADO and HR with consideration then being given as to what action the Headteacher might need to take in line with other trust procedures.

- 5.2 The Headteacher/CPLT should not initially investigate the matter by formally interviewing the accused person, the child or potential witnesses, but should:
- Ensure all children are safe
 - Establish whether or not the accused person was in a position to have harmed the child
 - Obtain written details of the allegation, signed and dated by the person receiving the complaint, or allegation (not the child/person making the allegation).
 - Countersign and date the written details.
 - Record any other 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.
- 5.3 If the allegation meets any of the criteria in paragraph 2.6, the Headteacher should report it to the LADO/Designated Officer on the same day. In certain cases allegations will be so serious as to require immediate intervention by children's services and/or police. Others that meet the criteria in paragraph 2.6 may seem much less serious and on the face of it will not warrant consideration of a police investigation, or enquiries by children's services. **However it is important to ensure that even allegations that appear less serious are seen to be followed up and taken seriously.**
- Consequently, the LADO should be informed of all allegations that come to the school's attention and appear to meet the criteria in paragraph 2.6 so that s/he can consult Police and Children Social Care colleagues as appropriate.
- 5.4 Referral should not be delayed in order to gather information. Overall compliance with the procedures may be monitored and evaluated by the SSCB. Instances of non-compliance will be identified and followed up.
- 5.5 If a concern or an allegation requiring immediate attention is received outside normal office hours the Headteacher should consult straight away with the children's services emergency duty team or police and also ensure that the LADO is informed the next working day.
- 5.6 The Headteacher in discussion with the LADO will determine who will be informed at this stage. They will consider whether or not to alert anyone during this verification process, eg. the accused person, other staff.
- 5.7 Failure to follow this guidance could jeopardise any subsequent criminal investigation.

6 INITIAL CONSIDERATION BY THE HEADTEACHER AND THE LOCAL AUTHORITY DESIGNATED OFFICER

- 6.1 The LADO/Designated Officer and Headteacher should:
- Establish that the allegation is within the scope of these procedures.
 - Verify whether there is evidence or information that establishes that the allegation is false or unfounded.
 - Consider whether further details are needed.
- 6.2 The Headteacher and the LADO will discuss how the matter should be progressed, how the parents should be informed (if they are not already aware of the allegation) and what the process for investigation will be. If other agencies eg. the police or social care need to be involved a strategy meeting will be convened. However, in some circumstances the school may need to advise parents of an incident involving their child straight away, for example if the child has been injured whilst at school or in a school related activity, and required medical treatment.
- 6.3 The Headteacher should inform the accused person about the allegation and provide the accused person with as much information as possible at the time as soon as possible after consulting the designated officer. However, where a strategy discussion is needed, or police or children's social care may need to be involved, the Headteacher should not do that until those agencies have been consulted, and have agreed what information can be disclosed to the person. If the person is a member of a union or professional association s/he should be advised to contact that organisation at the outset.
- 6.4 Staff suspension should not be an automatic default option; suspension should only be used where there is no reasonable alternative. Discussions with the LADO will usually determine whether or not suspension is appropriate in the circumstances.
- 6.5 **Mercia Learning Trust has a duty of care to their employees. They will act to manage and minimise the stress inherent in the allegations process. Support for the individual is vital to fulfilling this duty. As stated in 6.3, the employee should be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action, unless advised otherwise by the Police/LADO. As well as support from their trade union, the employee will be given access to Occupational Health/Welfare Counselling which will be initiated by the Headteacher.**
- 6.6 The Chair of Governors will also be informed. Discussions will also consider whether the accused person should be either suspended or required to remain away from work on full pay for whatever period is considered reasonable so as to ensure no-one's interests are compromised – up to a maximum of 72 hours, more conventionally 24 or 48 hours. If the employee refuses to stay away from

work then the only option will be to suspend the employee. The Headteacher must ensure that the member of staff is notified of any such requirement. The Trust's HR Adviser will usually be involved with such decisions.

- 6.7 Other staff affected by the employee's suspension or staying at home will be told what management action has been taken, but not about the allegations. Staff will be instructed not to talk about this action (including to parents, children, community etc). Staff should be informed that they may face disciplinary action themselves if they do not follow this instruction.
- 6.8 The LADO will notify the Headteacher of reports made via the Police and Children's Social Care Services.
- 6.9 Where it is clear that an investigation by the police or children's social care services is unnecessary, the LADO will discuss the next steps with the Headteacher. The options open to the Headteacher will depend on the nature and circumstances of the allegation and the evidence and information available. This will range from taking no further action to further investigation under the trust procedures eg. disciplinary or a decision in the case of a supply worker not to use that person's services again. The Headteacher will also discuss with the Trust's HR provider how an investigation will now be moved forward. In straightforward cases the Headteacher can delegate this to a senior member of staff with HR involvement.

7 STRATEGY DISCUSSION/INITIAL EVALUATION DISCUSSION

- 7.1 Strategy discussions/meetings are an important means by which key decisions are made and it is the responsibility of the LADO to initiate and co-ordinate these.
- 7.2 If the allegation is not patently false and there is cause to suspect that a child is suffering or is likely to suffer significant harm¹ the LADO will consider and where necessary make a referral to children's social care and ask them to initiate a strategy discussion straight away.
- 7.3 The police must be informed about any case in which a criminal offence involving a child may have been committed.
- 7.4 If the significant harm threshold is not reached, but a police investigation might be needed, the LADO will tell the police immediately and initiate an initial evaluation discussion with the police, Headteacher and other agencies involved with the child to evaluate the complaint or allegation and decide how it should be dealt with.

¹ See Adoption and Children Act 2002 S.120 and Children Act 1989 S.31 (9)

- 7.5 A strategy discussion or initial evaluation can be conducted by way of a series of telephone calls but it should take the form of a face-to-face meeting with a dedicated minute taker wherever practicable.
- 7.6 The LADO will normally chair the meeting and the participants should be sufficiently senior to contribute all relevant available information about the allegation, child and accused person and make decisions on behalf of their agencies. The personnel records of the accused person should be available at this meeting.

The meeting will be chaired and convened by the LADO and may also include:

- Headteacher of the school concerned (if the allegation is about the Headteacher, the Chair of Governors will attend)
 - HR representative, as appropriate
 - Relevant social worker and his/her manager
 - Supervising social worker and his/her manager when an allegation is made against a foster carer
 - Designated liaison officer from the police
 - Senior representative of the employment agency or voluntary organisation if the member of staff or volunteer has been placed by them, unless it is alleged that they have colluded or failed to respond to previous complaints
 - A medical practitioner with an appropriate area of specialist knowledge
 - Where a child is placed by or resident in the area of another local authority, a representative of that authority
 - A representative of the legal department of the local authority
- 7.7 In the case of an initial evaluation discussion children's social care need only take part if they are involved with the child or have a contribution to make.
- 7.8 The strategy discussion or initial evaluation, as appropriate, should also:
- Consider the three possible strands set out in 2.6 above.
 - Review any previous concerns or allegations about conduct of the accused person.
 - Decide whether there should be a formal Child Protection investigation, enquiry and/or police investigation and consider the implications.
 - Consider whether any parallel disciplinary process should take place.
 - Consider whether a complex abuse investigation is applicable.
 - Scope and plan enquiries.
 - Allocate tasks.
 - Set time-scales.
 - Decide what information can be shared, with whom and when. This includes the accused person and his/her representative, other members of staff and parents.
 - How to manage speculation, leaks and gossip.

- What if any information can reasonably be given to the wider community to reduce speculation.
- Ensure that arrangements are made to protect the children involved and any other children affected, including taking emergency action where needed.
- Consider what support should be provided to all children who may have been affected directly and indirectly.
- Consider what support should be provided to the person against whom the complaint or allegation has been made and others who might have been affected, such as other staff.
- Ensure that investigations are sufficiently independent.
- Make arrangements to inform the child's parents, and consider how to provide them with support and information during enquiries.
- Make recommendations where appropriate regarding suspension, or alternatives to suspension, of the subject of the complaint or allegation. The Chair of Governors should also be consulted prior to actioning any recommendations regarding suspension.
- Identify a lead contact manager within each agency.
- Agree protocols for reviewing investigations and monitoring progress by the LADO, noting the target timescales.
- Agree dates for future strategy or evaluation discussions or meetings.
- Consider how the police and children's social care will obtain consent from the individuals concerned, and how they will be informed that the statements and evidence obtained will be shared with the Head teacher/Chair of Governors and/or regulatory body for disciplinary purposes. This should be done as their investigation proceeds rather than after it is concluded to enable relevant information to be shared without delay.
- Consider the wording of any response to media enquiries and how to manage press interest if and when it should arise.

7.9 If the allegation is about physical contact, the strategy discussion or initial evaluation should take account of any entitlement by staff in certain professions to use reasonable force to control or restrain children in certain circumstances including dealing with disruptive behaviour e.g. Section 550A Education Act 1996 in respect of teachers and authorised school staff. Mercia Learning Trust has a policy on Restraint and Children which will be referenced in such circumstances.

7.10 The possible risk of harm to children posed by an accused person needs to be effectively evaluated and managed in respect of the children involved in the allegations. Some cases may require the school to consider suspending the person until the case is resolved. Suspension must not be automatic or actioned without careful thought, consideration should be given to whether alternatives to suspension might be appropriate, such as

- Mutual agreement to refrain from work
- Alternative duties/location
- Removal from contact with student(s)

Suspension criteria are:

- If a child or other children are at risk of significant harm
- If the allegations warrant police investigation
- If the allegation could be grounds for dismissal

The Headteacher and Governors have the sole power to suspend, unless under exceptional circumstances the Headteacher is indisposed and in such cases this decision can be delegated to the Deputy Headteacher. The trust's HR Adviser will usually be consulted on decisions to suspend

If the school is concerned about the welfare of other children in the community or the teacher's family these concerns should be reported to the LADO or police. The LADO should discuss with other agencies whether the accused person needs to be suspended from contact with children to inform the schools consideration of suspension. An individual should only be suspended if there is no reasonable alternative. It should be noted that suspension is a neutral act pending further investigation not a disciplinary sanction.

- 7.11 As highlighted earlier, Schools in the trust may consider alternative arrangements to suspension, eg. redeployment so the individual does not have direct contact with the child concerned, or providing an assistant to be present when the individual has contact with children. This will allow time for an informed decision regarding the suspension and possible reducing the initial impact of the allegation, this will depend on the nature of the allegation.
- 7.12 Where it has been deemed appropriate to suspend the person, written confirmation should be dispatched within one working day, giving the reasons for the suspension. The person should be informed at that point who their named contact is within the organisation and provided with their contact details.

In some cases further enquiries will be needed to enable a decision about how to proceed. If so the LADO should discuss with the headteacher, and chair of governors, how and by whom the investigation will be undertaken. In straightforward cases the investigation should normally be undertaken by member of the senior member of the school/leadership team. However, in other circumstances lack of appropriate resources, or the nature of complexity of the allegation may require an independent investigator.

Consideration should be given to how others will be informed of the suspension, these include the student, parents of the child making the allegation, senior teachers and other staff. The Headteacher should consult with the LADO about what information can be shared at this point and may wish to prepare a short statement to ensure this information is shared consistently. Care must be taken when disclosing any information to other staff and confidentiality must be maintained.

8 REVIEWING PROGRESS

8.1 The LADO should regularly monitor the progress of cases either by:

- Reviewing strategy discussions
or:
- Liaising directly with the police and/or children's social care, or the Headteacher, as appropriate

Reviews should be conducted at fortnightly or monthly intervals depending on the complexity of the case.

8.2 A final strategy or evaluation discussion should be held at the end of enquiries to ensure that all tasks have been completed and where appropriate to agree an action plan for learning lessons in order to inform future practice.

9 AFTER STRATEGY DISCUSSION/MEETING

9.1 After the strategy discussion/meeting, the Headteacher (with support from the HR provider) should meet the accused person (if they have not already done so). The purpose of this meeting is to:

- Inform him/her of the decisions of the strategy meeting.
- Release any information as agreed at the strategy meeting.
- To suspend the employee if this course of action has been agreed. Suspension will be in accordance with the relevant disciplinary procedure. This meeting will not be delayed if the employee's chosen representative is unavailable, but every effort should be made to allow representation from the employee's trade union.
- If suspension is not agreed, then any other appropriate action with regard to the employee will be carried out.

9.2 If a decision to suspend an employee at this stage has not already been taken, a decision to suspend may also be taken during the course of the investigation if:

- Further, more serious allegations are made
- New evidence is obtained which shows the initial allegations are more serious than first believed

9.3 The Headteacher will keep the employee who is the subject of the allegation informed of the progress of the case and consider (as identified above) what other support is appropriate for the individual. Particular care needs to be taken when employees are suspended to ensure that they are kept informed of both the progress of the case and current work related issues. They must not talk about the case to other members of staff or people outside work. General/social contact with other employees must not be prevented but should be discussed

and clarified/agreed with their Headteacher, this includes the use of electronic media such as social networking sites. Employees and managers should have regard to the Social Media policy and Employee Code of Conduct

- 9.4 During any period of suspension, the accused person must not make contact with the school or other employees about the case as this could prejudice an investigation. However, if the accused person or their Trade Union representative obtains permission from the LADO, or in cases where the LADO has previously determined it should be purely a disciplinary investigation obtains permission from the Headteacher/Chair of Governors (as appropriate) requests for contact regarding the case may be considered. They must not make contact with parents or children, present or previous, or the alleged victim. Where the accused person is resident (Caretaker) on the school site and could come into contact with the alleged victim or other children, they may be required to live elsewhere or there may be strict terms applied regarding their continued residence on site. Advice may need to be sought from the trust's Solicitors Other staff members or Governing Body must not discuss with the accused person any matters involving any parents or children during any period of suspension.

If the accused person is a member of a union or professional association they should be advised to contact that body at the outset. If they are a not a member of a trade union, then the Headteacher will discuss with them other avenues of support

- 9.5 Parents/main carers of a child involved should be given information about the concerns and advised on the processes to be followed and the outcomes reached (where there is not a criminal prosecution). The provision of information and advice must take place in a manner that does not impede the enquiry, disciplinary and investigative processes, and therefore it should be planned in discussion at the strategy discussion/meeting. Parents/carers should be kept informed about the progress of a case and told the outcome where there is not a criminal prosecution. The deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, cannot be disclosed.
- 9.6 In cases where it is decided on the conclusion of the case that a person who has been suspended can return to work, the school should decide how to best facilitate that. Most people will benefit from some help and support to return to work after a very stressful experience. Depending on individual circumstances a phased return and/or the provision of a mentor to provide assistance and support in the short term may be appropriate. Consideration should also be given to how the person's contact with the child or children who made the allegation can best be managed.

10 RESIGNATION AND “SETTLEMENT AGREEMENTS”

- 10.1 The fact that a person tenders his or her resignation or ceases to provide their services must not prevent an allegation from being followed up in accordance with these procedures and a conclusion reached. It is important that every effort is made to reach a conclusion in all cases of allegations impacting on the safety or welfare of children, including any in which the person concerned refuses to cooperate with the process. **A resignation will not prevent a thorough police investigation where appropriate, nor override the statutory duty to make a referral to the Disclosure & Barring Service (DBS) where circumstances require that.**
- 10.2 The Trust **cannot** use a “settlement agreement” by means of terminating the employment of an employee who is facing such allegations. Any such a decision is likely to result in a criminal offence being committed by the school.
- 10.3 Wherever possible the accused person should be given a full opportunity to answer the allegation and make representations about the allegation. The process of recording the allegation and any supporting evidence, and reaching a judgement about whether it can be substantiated on the basis of all the information available and investigation should continue to a conclusion even if that cannot be done or the person refuses to cooperate.
- 10.4 All cases papers and outcomes must be forwarded to the DBS where an employee is dismissed from service or resigned during the investigatory process.

11 REFERENCES

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

12 DISCIPLINARY PROCESS OR ASSESSMENT REGARDING SUITABILITY TO WORK WITH CHILDREN AND YOUNG PEOPLE

- 12.1 It is in everyone’s interest to resolve cases as quickly as possible consistent with a fair and thorough investigation. All allegations must be investigated as a priority to avoid any delay. The time taken to investigate and resolve individual cases depends on a variety of factors including the nature, seriousness and complexity of the allegation.
- 12.2 For cases where it is clear immediately that the allegation is unfounded or malicious then it is expected that they should be resolved within one week. If the matter being investigated is also the subject of a police investigation, the

employment investigations will be put on hold until the police have concluded their investigations.

- 12.3 The LADO and the Headteacher should discuss and agree what action is appropriate in all cases where:
- It is clear at the outset or decided by a strategy discussion or initial evaluation that investigations by the police or enquiries by children's social care are not necessary.
 - The Headteacher and LADO is informed by the police or the Crown Prosecution Service (CPS) that a criminal investigation and any subsequent trial is complete or that an investigation is to be closed without charge or a prosecution discontinued.
- 12.4 The discussion should consider any potential misconduct or gross misconduct on the part of the accused person and consider as part of the decision making process about whether disciplinary action is necessary:
- Information provided by the police and/or children's social care.
 - The outcome of any investigation or trial.
 - The different standard of proof in disciplinary and criminal proceedings.
- 12.5 The options will range from no further action to summary dismissal or not using the person's services in future.
- 12.6 Where the initial verification decides that the allegation does not involve a possible criminal offence, it will be for the Headteacher to deal with it following discussion with the LADO. In such cases, if the nature of the allegation does not require formal disciplinary action, the Headteacher should institute appropriate action as a matter of urgency.
- 12.7 Where disciplinary action is required the accused person should be given a copy of the disciplinary procedure and code of conduct as they are notified of this and informed of their rights of representation.
- 12.8 Where further investigation is needed to decide upon disciplinary action, the Head teacher, HR Adviser and the LADO should discuss who should undertake that.
- 12.9 In some circumstances, it may be appropriate for the disciplinary investigation to be conducted by a person who is independent of the school or person's line management, to ensure objectivity.
- 12.10 The investigation team should review suspension arrangements (if appropriate) and should aim to provide an outcome/recommendation as soon as possible.

- 12.11 The investigation team should consider all the evidence available to them and interview all relevant witnesses prior to the meeting with the accused person. Before being interviewed the accused person should be given up to date details of the allegations being made against him/her.

Anyone giving evidence to the team must be given the opportunity to have a Trade Union representative or other Mercia Learning Trust colleague with him/her when meeting the team.

- 12.12 No child can be interviewed without the permission and presence of someone who has parental responsibility for that child or his/her nominated adult representative.
- 12.13 On receipt of the recommendation/report, the Head teacher/Chair of Governors should decide whether a disciplinary hearing is needed and, if so, it should be held as soon as possible
- 12.14 At the conclusion of a case in which an allegation is substantiated the LADO should review the circumstances of the case with the Headteacher and Chair of Governors to determine whether there are any recommendations in relation to the schools procedures or future practice/training needs.

13 SHARING INFORMATION FOR DISCIPLINARY PURPOSE

- 13.1 In a strategy discussion or the initial evaluation of the case, the agencies involved should share all relevant information they have about the person who is the subject of the allegation and about the alleged victim.
- 13.2 Where possible the police should obtain consent from the individuals concerned to share the statements and evidence they obtain for disciplinary purposes.
- 13.3 This will enable children's social care, the police and CPS to share relevant information without delay at the conclusion of their investigation or any court case.
- 13.4 The local authority social care services should adopt a similar procedure when making enquiries to determine whether the child or children named in the allegation are in need of protection or services, so any information obtained in the course of these enquiries that is relevant to a disciplinary case can be passed to the school without delay.
- 13.5 If the police or CPS decide not to charge or decide to administer a caution, or the person is acquitted, the police should pass all relevant information to the employer without delay.

- 13.6 If the person is convicted, the police should inform the employer straight away so that appropriate employment action can be taken.

14 RECORD KEEPING

- 14.1 The School must keep a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached and the Investigation Team's report on a person's confidential personnel file and give a copy to the individual. The purpose of the record is to enable accurate information to be given in response to any future request for a reference where appropriate.

Allegations that are found to have been malicious by the Headteacher should be removed from personnel records.

- 14.2 The record be kept at least until the person reaches normal retirement age or for 10 years from the date of the allegation, if longer.
- 14.3 The record will provide accurate information for any future reference and provide clarification if a future DBS disclosure reveals an allegation that did not result in a prosecution or a conviction. It will prevent unnecessary re-investigation if the allegation should resurface after a period of time.
- 14.4 Staff who have been exonerated following an investigation must not be unfairly disadvantaged in terms of their future treatment by employers, governors and career prospects. They should be reassured that, although a record of the investigation is kept on their confidential personnel file, it is not a disciplinary or other type of warning. The purpose of keeping this record on file is to protect the employee as well as children. The wording of any future reference will reflect this fact.

15 MONITORING PROGRESS

- 15.1 The LADO has overall responsibility for oversight of the procedures for dealing with allegations, for resolving any inter-agency issues; and for liaison with the Local Safeguarding Children Board (LSCB) on the subject.
- 15.2 The LADO will provide advice and guidance to the school, in addition to liaising with the police and other agencies, and monitoring the progress of cases to ensure that they are dealt with as quickly as possible consistent with a thorough and fair process
- 15.3 The LADO will keep comprehensive records in order to ensure that each case is being dealt with expeditiously and that there are no undue delays.

- 15.4 The records will assist the Sheffield Safeguarding Children Board to monitor and evaluate the effectiveness of the procedures for managing allegations and provide statistical information to the DfE as required.
- 15.5 The police can consult the Crown Prosecution Service (CPS) at any stage about the evidence needed to charge a person, but they should also set target dates for reviewing the progress of the investigation and consulting the CPS about charging, continuing or closing the investigation.
- 15.6 This should be no later than 4 weeks after the initial evaluation wherever possible and fortnightly or monthly thereafter, if the investigation continues.

16 ACTION IN RESPECT OF UNSUBSTANTIATED ALLEGATIONS

Where there is insufficient evidence to substantiate an allegation the Headteacher should consider what further action, if any, should be taken. This may include a review of internal processes/procedures to prevent similar situations arising again.

17 ACTION IN RESPECT OF UNFOUNDED OR MALICIOUS ALLEGATIONS

- 17.1 False allegations are rare and may be an indicator of need elsewhere requiring further exploration. If an allegation is determined to be false, the Headteacher, in consultation with the LADO, should refer the matter to children's social care to determine whether the child is in need of services, or might have been abused by someone else.
- 17.2 If an allegation is malicious, the Headteacher should consider whether any disciplinary or other management action is appropriate against the accuser, whether this be the worker, parent or student as appropriate. If the allegation has been maliciously invented the matter should be referred to the Police in consultation with the LADO. The Police will consider prosecution.

18 REFERRAL TO THE DISCLOSURE & BARRING SERVICE (DBS)

- 18.1 If the allegation is substantiated and the person is dismissed or the school ceases to use the person's services, or the person resigns or otherwise ceases to provide his/her services, the LADO should discuss with the Headteacher and HR Adviser a referral to the Disclosure & Barring Service (DBS) for consideration of inclusion on the barred lists or to the appropriate regulatory and/or professional body, eg. National College for School Leadership (NCSL). Consideration will be given as to the person being barred from, or have conditions imposed in respect of, working with children (this includes people provided by a supply agency or a volunteer).

18.2 There is a legal requirement for employers to make referrals to the DBS where they think

- An individual has engaged in conduct (including inappropriate sexual conduct) that harmed (or is likely to harm) a child, or
- If a person otherwise poses a risk of harm to a child

The referral should be made as soon as possible after the resignation or removal of the member of staff involved and within one month of ceasing to use the person's services.

18.3 If a referral is appropriate the report should be made within one month of the dismissal or resignation.

18.4 If it is agreed that a referral is required or desirable, the LADO should advise on the form and content of such a referral.

18.5 Employers that now want to make any DBS Children's/Adults list referrals where they believe an individual poses a risk of harm to children or vulnerable adults should make the referral directly to the Disclosure & Barring Service (DBS). All cases of Misconduct that have a child protection element must be referred to the DBS. The DBS will then undertake the necessary casework and decide whether that individual should be barred from working with children or vulnerable adults. Employers are obliged to provide relevant information (upon request by the DBS) about any referral to support the case.

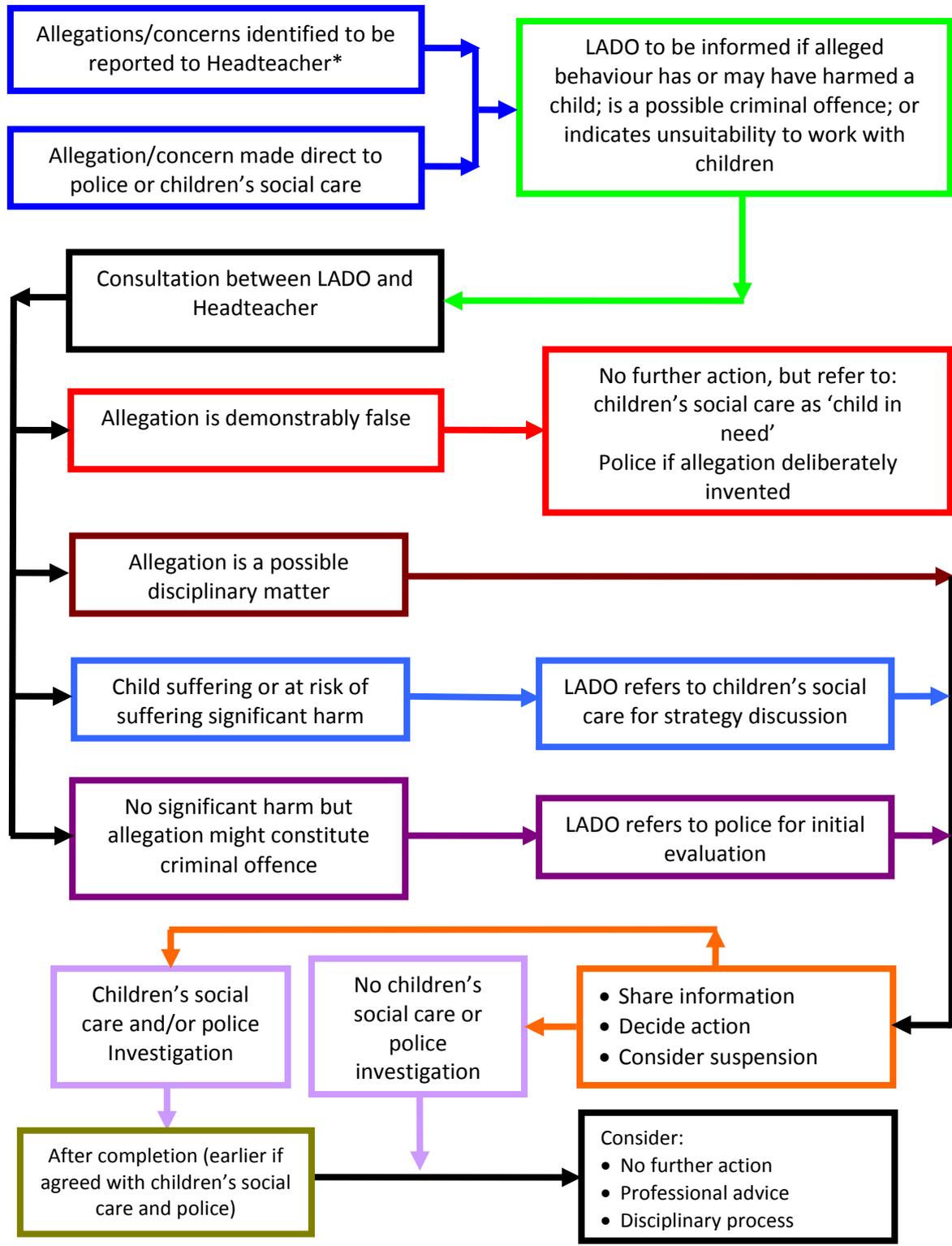
19 CONCLUDING STRATEGY MEETING

19.1 In serious cases resulting in dismissal or the school ceasing to use the person's services, there will always be a concluding strategy meeting chaired and co-ordinated by the LADO. This may include the Headteacher and HR Adviser.

19.2 The agenda for this meeting should include the outcome of the process, the Local Authorities recommendation and formal recording of reasons for any referral to regulatory and/or professional bodies.

APPENDICES

**ALLEGATIONS OF ABUSE AGAINST TEACHERS AND OTHER STAFF
ACTION BY HEADTEACHER AND LA DESIGNATED OFFICER (LADO)**



* If the accused person is the Headteacher then the Chair of Governors will be the designated person responsible for Child Protection with advice via LADO and HR Adviser.