

# Managing allegations and safeguarding concerns policy

LJS NURSERY SCHOOL

September 2021



# LJS NURSERY SCHOOL POLICY FOR managing allegations and safeguarding concerns about staff, trustees or volunteers

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Date: September 2021

Review date: September 2022 or at new guidance

**This policy is to be used where there are allegations or concerns about staff, teachers, trustees or volunteers.**

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## the background

1. Young people can be at risk from those who care for them. This policy aims to ensure any concerns about their welfare with staff, trustees and volunteers are taken seriously and that their safety and welfare is given paramount consideration.
2. Caring for young people can be a challenging job and the nursery has a duty of care to keep staff safe, particularly when an allegation is made, or a concern is raised. This policy helps to ensure they receive support, that the concern is dealt with promptly, and that decisions are fair.
3. This policy covers low level concerns or allegations relating to staff and volunteers still working at the school. Historical allegations should be referred to the police.
4. We want any concern, however small, to be shared with the school to create an open and transparent culture, minimise the risk of abuse, and respond early to issues that could later become allegations. Low level concerns can be shared directly with the safeguarding team.
5. Concerns can be raised by staff confidentially. In the most serious cases their anonymity may be waived for evidence at a court or tribunal.
6. While supply staff are not employed by the school, for purposes of this policy the school will take responsibility to ensure allegations are dealt with appropriately and liaise with relevant parties. In no circumstances will the school decide to cease to use a supply teacher due to safeguarding concerns, without finding out the facts and liaising with the local authority designated officer (LADO) to determine a suitable outcome. A copy of this policy is shared and agreed with supply agencies and any staff who work in the school.

## reporting concerns

7. All staff, trustees and volunteers are under a duty to immediately report concerns they have to the head teacher, who will ensure they are investigated. While staff may not be given confidential information about the outcome, they must be satisfied the information has been taken seriously and that children and young people are safe.
8. If a concern remains after speaking to the head teacher, or if the concern relates to the head teacher, the LJS Nursery chairperson Barbara Fidler should be contacted.
9. If a member of staff is unable to speak to the head teacher, the nursery chairperson or the synagogue DSL and their concern is serious; they may approach the local authority designated officer (LADO) or follow the Whistleblowing Policy.

Contact details for the LADO:

Tel: 020 7641 7668 or e-mail [LADO@westminster.gov.uk](mailto:LADO@westminster.gov.uk)

## timescales

10. Where a child is at immediate risk of harm, **immediately** call the police on 999
11. Where it is immediately clear an allegation is unsubstantiated or malicious this should be resolved within **one week**.
12. 80 per cent of cases should be resolved within **one month**, 90 per cent within **three months**, and all but the most exceptional cases should be completed within **12 months**.
13. Disciplinary action, where this can be held without further investigation, should take place within **15 working days**.
14. Any other action should take place within **3 working days**.

## initial concerns

### Consideration of initial concern

If this concern or allegation is accurate, does it suggest the subject **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
- behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children
- behaved or may have behaved in a way that indicates they may not be suitable to work with children

15. As no investigation has yet been undertaken the judgement should be taken on the assumption the allegation as presented is accurate – this will be investigated later. If the answer to any of the above questions is 'yes' the LADO must be consulted.

16. The head teacher and the delegated Designated Safeguarding Lead (DSL), should commence a confidential record in the safeguarding file recording the concern and date this was raised then (using the above table) recording the reasons for their judgement.

17. Concerns that do not meet this threshold are still important but should follow the 'low level concerns' section below. If the response to any of the above questions is 'YES' follow the 'notify the LADO' section.

## low level concerns

18. Low level concerns individually do not meet the threshold for referral to the LADO but could indicate a pattern or cumulatively lead to a referral.

### Analysis of low level concerns

- Are there previous low level concerns?
- Do these add together to meet threshold for referral to LADO (follow the; notify the LADO section)?
- Does this constitute a breach of the Code of Conduct (if so, consider disciplinary or capability process)?
- Why was the person raising the concern worried?
- What can we learn from the concern being raised?
- Is there anything the subject could do differently?

Actions:

Your name & post:

Date:

19. The DSL and the Nursery chairperson will review low level concerns and consider whether they may breach the Code of Conduct. A disciplinary or capability investigation may then commence.

20. Where the Code of Conduct is not breached the DSL will arrange for the deputy head (DDSL) and their class leader to meet with the person and discuss the concern, how it occurred and what can be done in future to reduce concerns. The focus should be on learning and development.

21. For more guidance read "Farrer & Co (2020) Developing and implementing a low-level concerns policy": A guide for organisations which work with children.

## notify the LADO

22. The LADO's role is to co-ordinate the response to concerns that an adult who works with children may have caused them or could cause them harm. They provide guidance and liaison between services, monitor progress of referrals, resolve differences of view, disseminate learning and ensure measures are in place to reduce the risk of further harm. They do not, themselves, investigate concerns.
23. The synagogue DSL and the head teacher (nursery DSL) should record on the safeguarding file who will take the role of Case Manager, leading for the school, and gather the following information for the referral to the LADO, although they should not delay notification. The subject should not be made aware this information is being gathered at this point:

### **Information about the concern**

#### **Subject**

- Name & job title
- DOB & home address
- Any other employment roles they have, and the status of each post
- Whether they have any other access to children, for example in another post or living with them at home
- Time in post at the school
- Details of any previous concerns known to the nursery (or supply agency where relevant)

#### **Each child involved**

- Name, gender, DOB
- Address
- Any social work involvement
- Any previous allegations made

#### **Incident or cause of concern**

- Where the incident occurred, including address & postcode
- Details of the allegation

24. The case manager should immediately discuss the allegation with the LADO and make a note of their discussion on the safeguarding file and email a copy of this to the LADO:

### **Discussion with LADO**

- Nature, content and context of the allegation
- Is there an immediate risk to children or possible criminal offence? (notify Police)
- Is there cause to suspect a risk of significant harm? (strategy discussion required)
- Notes of discussion
- Do you agree with the outcome? If not, record of dissent/discussion

### Outcome:

- Children's services safeguarding investigation?
- Police investigation?
- Internal investigation (and who will undertake this)?
- No Further Action – Refer to Low Level Concerns section

### Risk assessment

- What could happen and the impact it could have
- The likelihood of this
- What actions are necessary to mitigate risk

### Advising the subject

- If NFA, what should be put in writing to the subject and by whom
- What the case manager can share with the subject and when
- Any changes that need made to their work (see considering suspension section if this is a possibility)

### Advising parents

- What can be shared with the parents, by who and by when

### Where there may be press interest:

- Managing speculation, leaks and gossip

- Information that needs to be shared with the wider community
- How to manage press interest

Is there a requirement for notification of regulatory bodies (e.g. Ofsted, Charity Commission)?

Actions agreed:

Date/discussion principal updated:

Your name & post:

Date:

25. Where a member of staff is from an employment agency, the allegations management meeting, should address issues such as information sharing, to ensure that any previous concerns or allegations known to the agency, are taken into account, during the investigation.
26. The discussion should set out how the investigation is to proceed. There are three potential investigations (above). The safeguarding of children will always take priority. The school's internal investigation (against the code of conduct and potentially the disciplinary or capability procedures) may need to wait until the other investigations have reached a suitable point.

## internal investigations

27. An internal investigation will be undertaken into allegations which do not require children's social care or Police involvement, or where such investigations have concluded and there remains a need to ascertain facts.
28. An internal investigation will not be undertaken where there is reasonable cause to suspect a child is at risk of significant harm, or where there are reasonable grounds to suspect a crime has been committed. If information arises, during the course of an investigation, that raises such concerns, the investigation will be suspended and further consultation undertaken with the LADO, a referral made to children's social care and/or the Police.

29. The DSL, a deputy or the nominated case manager may undertake an internal investigation. Where cases are complex, where there may be conflicts of interest, or for operational reasons an independent investigator may be appointed.
30. The purpose of an internal managing allegations investigation is to determine the facts. It is not a disciplinary investigation.
31. Where interviews are arranged with subjects of allegations, they will be given at least **two working days'** notice and offered the opportunity to bring a trade union representative or colleague for support. Their companion will not be able to speak on their behalf, but can help them with their notes, provide emotional support and request a break in the meeting if necessary. They may not bring a solicitor or other legal professional.
32. Interviews with subjects, witnesses and young people will be minuted, and a copy of the minutes will be shared for an accuracy check. Amendments can be made, or if different recollections are held, both will be recorded.
33. A report of the internal investigation will be compiled and shared with the subject. This will make recommendations and reach a finding whether the allegation is:
- **Substantiated:** there is sufficient evidence to prove the allegation.
  - **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive.
  - **False:** there is sufficient evidence to disprove the allegation.
  - **Unsubstantiated:** there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence; or
  - **Unfounded:** to reflect cases where there is no evidence or proper basis which supports the allegation being made.
34. Internal investigations should not be lengthy and should conform to the timescales set out in this document.

## strategy discussions/allegations management meeting

35. Where the LADO or school identify, that a child may be at risk of significant harm, a managing allegations strategy discussion **must** be convened by the LADO. This **must** include Children's Social Care, the Police and Health. The school should also be part of this discussion, along with any other agencies that have a significant interest (for example, if the subject works for a supply agency or a

voluntary organisation, then the agency's safeguarding manager should be invited).

36. The strategy discussion should be attended by the DSL, or head teacher and Case Manager. While minutes are taken and circulated, the school should make their own record of the meeting and place this on the confidential safeguarding file.
37. If other investigations are to be undertaken, the school should ask the Police and Children's Social Care, to obtain consent from people they interview to share the records of interviews. This is for school use, in the internal investigation and any disciplinary process. This will reduce the potential for duplication later.
38. The meeting will consider:
  - Whether children affected are safe from harm.
  - Threshold for a Section 47 Enquiry and or a police investigation.
  - Whether any parallel internal investigation or disciplinary process can take place, and agree protocols for sharing information.
  - Whether a report should be made to the Disclosure and Barring service and/or relevant professional bodies.
  - Relevance of any previous allegations or concerns.
  - What information can be shared, with whom and when.
  - What support is being provided for children and their families.
  - What support is being provided for the subject, what they can be told and be kept up to date with the progress of the investigation.
  - Issues which need to be brought to the attention of senior managers, including potential for press interest.
  - Learning across organisations.
  - Whether a complex abuse investigation is required (see local area child protection procedures)

## considering suspension

39. Suspension should only be considered where there is no reasonable alternative. The decision on whether to suspend a member of staff rests with the trustees, although they must give weight to the advice of the head teacher, DSL, other agencies and the LADO.
40. Where the member of staff is employed by an agency, there will be discussions with the agency whether it is appropriate to suspend the supply teacher, or

redeploy them to another part of the school, whilst the investigation is undertaken.

### Considering suspension

- Has an interim prohibition order has been made by the Secretary of State in respect of the subject? YES/NO

The subject must be **immediately** suspended. In other cases:

- Is there cause to suspect the child or other children is at risk of harm? YES/NO
- Might this be grounds for dismissal YES/NO

If both answers are no, there are insufficient grounds for dismissal. If at least one answer is yes, could children be kept safe by:

- redeployment within the school or college so that the subject does not have direct contact with the child or children concerned YES/NO
- redeploying to alternative work in the school or college so the subject does not have unsupervised access to children YES/NO
- moving the child or children to classes where they will not come into contact with the subject, making it clear that this is not a punishment and parents have been consulted; or YES/NO
- temporarily redeploying the subject to another role in a different location, for example to an alternative school or college or work for the local authority or school trust YES/NO

If the answer to any of these is yes, and if the police, children's services or the designated officer raise no serious objections, the member of staff may not be suspended as there is a reasonable alternative.

### Risk assessment

Set out what could happen and the likelihood of this, with the risk mitigated by any action set out above (e.g. no contact with the child)

Set out the impact of permanent professional reputational damage, or other personal impact (e.g. depression and similar) if concern was malicious or unsubstantiated.

### **Views of the LADO and other agencies** (if involved)

Decision:

Reasons:

Action:

Your name & post:

Date:

41. A copy of the above record should be sent to the LADO. If the subject is suspended written confirmation should be sent to the subject **within one working day**, if suspended:

### **Letter to suspended subject**

- The reasons for suspension (as agreed by the LADO)
- The name and contact details of the person the organisation has identified to support them
- Suspension is a neutral act while actions are taken to ascertain the facts. This is not a disciplinary investigation, but an investigation to determine what has happened and how everyone can be kept safe.

42. The suspension of a member of staff should be kept under review as new information emerges. The 'Considering Suspension' box above can be completed at each point.

## notifying the subject

43. Allegations and concerns can raise significant stresses and worries for the subject, whether the allegations are with or without foundation. The school has a duty of care to staff, trustees and volunteers and must provide them with clear information and support through the process.
44. As much information about the concern as possible should be shared with the subject at the earliest opportunity, while respecting the anonymity of the person raising the initial concern. However, this cannot be undertaken if police or children's social care are to be involved, until they have been fully consulted. In practice, this means allegations will not be shared until there has been consultation with the LADO.

### **Briefing of the subject**

- The information that can be shared with the subject
- Any changes that need made to their work (see considering suspension section if this is a possibility)
- Explanation of what will happen next
- Advice to contact Trade Union representative, or a colleague
- Information about welfare counselling and medical advice
- Who will be there to support the subject
- Advice about their confidentiality and discussions with colleagues or friends

45. The school must appoint a named representative to keep the subject informed of progress and consider their support needs.
46. Social contact with colleagues and friends should not be prevented, unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.
47. If the person resigns, or ceases to provide their services, the allegation will still be investigated. A settlement or compromise agreement may not be used if the LADO criteria are met.

## notifying parents

48. Parents should be advised at the earliest opportunity, in consultation with the LADO, social care and police (if involved).

### **Briefing of parents**

- The information that can be shared with the parents
- Explanation of what will happen next
- Any support they or their child might need
- Advice about their confidentiality and requirement on them to maintain confidentiality during the investigation (section 141F of the Education Act 2002). In particular, they cannot publish (or post on social networks) identifiable information about the allegation unless the subject is charged with an offence, or it is published by the Secretary of State

## conclusion of investigations

49. The LADO should ensure investigations are undertaken promptly and follow these up at least once a month. The school also has a duty of care to both students and staff and should take regular action to ensure investigations proceed expediently, including those of other agencies. Where there is unnecessary delay the school should follow the interagency escalation procedure with the LADO and other agencies to ensure decisions are made promptly to keep young people safe.

50. On completion of an internal investigation, or if there is a Police investigation and a decision has been made on whether or not to charge the subject, the Case Manager should gather the information available (e.g. statements where consent has been given) and discuss how to proceed with the LADO (this may take the form of a strategy discussion). Judgements should be made on the balance of probability, rather than the criminal threshold of beyond all reasonable doubt:

### **Case discussion with LADO**

- Is there sufficient evidence to believe the subject has behaved in a way that has harmed a child, or may have harmed a child; committed a criminal offence against or related to a child; and/or

behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children?

- Is the allegation:
  - **Substantiated**: there is sufficient evidence to prove the allegation;
  - **Malicious**: there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive.
  - **False**: there is sufficient evidence to disprove the allegation.
  - **Unsubstantiated**: there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.
  - **Unfounded**: to reflect cases where there is no evidence or proper basis which supports the allegation being made.
- or is a further internal investigation necessary to reach a view?
- Is there evidence to suggest a disciplinary or capability investigation should be commenced?
- Should the DBS or other regulatory body be advised (this is mandatory if someone has harmed a child, is likely to harm a child or otherwise poses a risk of harm to a child)?
- If a child has made an unsubstantiated or malicious allegation the LADO should refer to children's social care to determine whether the child, is in need of services or may have been abused by someone else. Consideration should also be given to disciplinary action or police involvement if an allegation has been deliberately or maliciously invented by anyone.
- Impact on child and parents and recommendations in relation to support for them and any other associated children or adults.
- Recommendations for support, monitoring or training for the subject
- If an allegation is substantiated the DSL and Case Manager should determine what could be improved to avoid similar events in future, and improve the procedures and practice around the investigation.

Analysis:

Actions:

Name, role & date:

51. The case manager should share the above record with the LADO.

## maintaining records

52. Where the outcome of investigations finds the concern raised was malicious, no information about the investigation will be placed on personnel files, although it will remain on the young person's confidential safeguarding file.
53. In all other circumstances the record will be kept on both the safeguarding and personnel files and a copy provided to the subject, until the subject reaches the normal pensionable age or for 10 years if this is longer.
54. False, unsubstantiated and malicious allegations will not be included in any employer reference.

## support for subjects

55. The stress on subjects of allegations should not be underestimated. The school **must** provide a named person with contact details whose role is to support the individual and keep them apprised of the progress of the investigation.
56. The school should also ensure the subject is aware of confidential counselling services and health services they can access. They may have access to additional support through a trade union.
57. The subject's supervisor should meet with them more regularly to ensure they are feeling supported at work.
58. If suspended, subjects should still have contact from their named person at least fortnightly to keep them apprised of the investigation. They should be advised of their rights, to take issue with any delay in the investigation without prejudicing the fairness of the investigation.
59. Where a subject of an allegation returns to work from suspension the case manager should meet with them to consider how best to support them. The school can offer a phased return or a mentor to support them back into work. Particular attention should be given to how they rebuild relationships with young people involved in the allegation.

## repeat allegations

60. There is a risk that young people who persistently raise concerns will be denied a proper assessment. In these unusual situations, a robust individual plan should be put in place around the young person ensuring that their views are taken seriously, given the appropriate independent scrutiny in line with statutory guidance, while allowing a 'common sense' approach that does not disrupt the running of the school. This plan should be agreed with the LADO, other key agencies involved (such as children's social care or CAMHS) and where possible the parents and young person and placed on their safeguarding file.

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