

Medway Safeguarding Children Partnership

The Management of Allegations against Adults
who work in a Position of Trust with Children:
Medway LADO Service

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1. Introduction and Definitions

The role and function of the Medway LADO service is based on the guidance set out in Working Together to Safeguard Children 2018 and Keeping Children Safe in Education 2020, the Children Act 1989 and 2004.

2. LADO Team Structure

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3. Safeguarding Responsibilities of all Services

Section 11 of the Children Act 2004 places duties on a range of organisations, agencies, and individuals to ensure their functions, and any services they commission are discharged having regard to the need to safeguard and promote the welfare of children.

Translating Section 11 (Children's Act 1989) into practice means, Medway Safeguarding Children Partnership has the responsibility to make arrangements for key partners to work together with relevant agencies and organisations to safeguard and protect the welfare of children in Medway.

Specific to the LADO process each organisation should have a named senior officer with overall responsibility for:

- Ensuring that the organisation deals with allegations in accordance with the local procedure (Medway LADO Procedures)
- A Senior Manager to whom allegations or concerns should be reported, for example, a Head Teacher, a Nursery Manager
- A deputy to whom reports should be made in the absence of the designated senior manager or where that person is the subject of the allegation or concern. For example, if an allegation is raised against a Head Teacher, staff within the setting should know who to report their concerns to.

Every local authority has a responsibility to assign a Designated Officer (LADO) or team of Designated Officers (LADOs) to:

- Receive reports about allegations and to be involved in the management and oversight of individual cases
- Provide advice and guidance to employers and voluntary organisations
- Liaise with the police and other agencies
- Monitor the progress of cases to ensure that they are managed in a timely manner, consistent with a thorough and fair process
- Provide advice and guidance to employers in relation to making referrals to the Disclosure and Barring Service (DBS) and regulatory bodies such as Ofsted, the GMC and the TRA etc.

It is important to note that the LADO does not investigate individual allegations. The role of the LADO is to have independent oversight of the investigation process.

Despite all efforts to recruit safely there will be occasions when allegations of abuse against children are identified and need to be addressed comprehensively. These procedures set out the role and function of the LADO when an allegation is raised about an individual who works with children, whether in a paid or unpaid capacity in a position of trust.

Position of Trust is a legal term that refers to certain roles and settings where an adult has regular and direct contact with children. Examples can include teachers; care workers; youth justice workers; doctors; nurses and social workers. They can also include voluntary roles, for example: scouting activities with children; sports coaches; faith-based organisations; and voluntary mentors.

All references in this document to *staff* or *members of staff* should be interpreted as meaning all paid or unpaid staff / professionals and volunteers.

It is the LADO service within the Local Authority where the subject of the allegation undertakes their role in a position of trust who will have oversight of the allegation management process.

4. LADO Threshold

These procedures should be applied when there is an allegation or concern 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
- 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 (Working Together to Safeguard Children, amendment 2020)

These behaviours should be considered within the context of the four categories of abuse (i.e., physical, sexual, emotional abuse and neglect).

Employers and voluntary organisations may need to consider the behaviour of an individual outside of their work environment, which raises concerns about the individual's suitability to work with children. For example, where a domestic abuse incident has taken place or where there are child protection concerns about the individual's own children.

5. Timescales and Initial Actions including Information Sharing

The employer or organisation must make a **LADO referral within 24 hours** when an allegation is made, prior to any further investigation taking place.

They can do so by accessing the **LADO referral** form via:

<https://www.medway.gov.uk/mscb/info/4/advice-resources-professionals/2/concerned-childcare-professional>

Completed referral forms should then be sent simultaneously to Child.protection@medway.gov.uk and Triage@medway.gov.uk

The telephone number for the LADO service is 01634 331065.

This is available 9am – 5pm, Monday to Friday. There is a duty LADO available during these times to provide advice to any employers, organisations, and professionals within Medway.

It is important for referrals made to the LADO service to include clear information about the subject, nature and details of the concerns, including dates, times, any witnesses and any initial actions taken.

The referral is reviewed by Medway Children's Services and the LADO simultaneously.

The LADO will respond to the referrer within one working day from receipt of the referral.

It is the role of Medway Children's Services to assess the safeguarding and welfare needs of the child or children related to the referred allegation and/or the children of the subject of the allegation. This may include a decision to progress a strategy discussion (Section 47 Children Act 1989) child and family assessment under Section 17 of the Children Act 1989, early help interventions or no further action. The action taken here is called a *threshold decision*.

Consideration will also be given to initial information sharing in relation to the allegation, which needs to be balanced with any criminal investigation processes. Where relevant, this should be agreed with the police before information is disclosed.

Whilst ensuring that no evidentiary process is negatively affected, the key principle is that the allegations management process should be based on clear and effective information sharing, which respects the confidentiality of those involved whilst also ensuring the concerns are subjected to clear safeguarding scrutiny.

As such, the parents or those with parental responsibility for the child or children involved should be informed of the involvement of the LADO service by the employer, organisation or allocated social worker and assured that the concerns are being fully reviewed. Consideration should also be given to how this information is shared with the children directly, in line with their needs and understanding.

The subject of the allegation should also be informed of the allegation and the involvement of the LADO service by the employer or organisation as soon as possible.

The subject of the allegation should:

- Be treated fairly and honestly and helped to understand the concerns expressed and processes involved
- Be kept informed of the progress and outcome of any investigation and the implications for any disciplinary or related process by the employer and/or investigating persons.
- The subject of an allegation should be clear about who within the setting will be supporting them through the process and their contact details.

6. Referrals Made Outside of the One Working Day Timescale

Allegations made outside of the one working day timescale will be responded to in the same way as current concerns by Children's Services and the Police. In these cases, it is important to clarify if the subject of the allegation is still working with children in a paid or voluntary capacity. If this is the case the LADO service will consider whether the subject of the allegation continues to operate in a position of trust and will work in partnership with the employer to complete a risk assessment. These referrals may be outside of the timescale by a few days, for example an employer not acting on their responsibility to refer within one working day. Or they could be historic allegations relating to prior childhood experiences, months or even years previously.

7. Confidentiality

Every effort should be made to maintain confidentiality and guard against publicity while an allegation is being investigated or considered. Apart from keeping the

child, parents, and the subject of the allegation (where this would not place the child at further risk) up to date with the progress of the case, information should be restricted to those who have a need to know in order to protect the rights of all concerned. All LADO documents are restricted and should not be disseminated or stored on any files without the written permission of the LADO.

8. Support

The employer, together with the LADO service/Children's Social Care and/or the Police, should consider the impact of the allegation on the child/children concerned and provide support as appropriate. Liaison between the agencies should take place to ensure that the child/children's needs are addressed.

As soon as possible after an allegation has been raised, the member of staff who is subject of the allegation should be advised of the support arrangements in place for them through the process. They may also wish to contact their union or professional association. The employer's HR service should also be consulted at the earliest opportunity.

9. Referral Process

The LADO service will contact the referrer within one working day to confirm receipt of the referral.

The referrer is not always the employer of the subject and may, for example be a parent. On this premise, the referrer will be reassured that the allegation and / or concern will independently be reviewed and progressed to a conclusion by the LADO Service.

Referrers who are the employer and / or the individual with safeguarding responsibilities within their organisation, will be supported by the LADO to consider any immediate and interim risk management measures that should be exercised whilst an investigation is progressed.

10. Employer Initial Risk Assessment

At the point of an allegation being made against a member of staff or volunteer, the employer or organisation will be supported by the LADO service to consider an interim risk assessment to reduce the risk of any further allegations and simultaneously protect children and staff whilst the allegation is investigated.

This should include how the risk is going to be managed operationally. Consideration should be given to whether;

- Additional levels of support and supervision that seek to mitigate or lessen the likelihood of further incident whilst the allegation is being investigated,
- Can the member of staff be allocated to alternative duties?
- Has HR advice been sought?

Where required, suspension may need to be considered as the last resort. This should not be automatic and should be considered a neutral act whilst the matter is reviewed.

If the subject of the allegation works in more than one position of trust with children, the LADO will support all the agencies to assess the risk, applying a balanced and proportionate approach to sharing information and risk management.

11. Medway LADO Pathways

In Medway, allegations received by the LADO service are considered applying the 3 pathways:

1. Duty Enquiry
2. Consultation and Advice.
3. LADO Referral Pathway.

These pathways relate to the LADO threshold statements set out in Section 3.

Different referrals into the service require different levels of LADO oversight and recording.

Duty Enquiry Pathway

This is a contact with the LADO service, which after consideration is not deemed to meet the definition of an allegation.

In these situations, the LADO will record the contact and whether LADO advice and or signposting to other organisations was provided. The referrer will be provided with a summary of the LADO advice.

Consultation and Advice Pathway

This is where the concerns raised within a referral to the LADO service, meet the threshold for LADO oversight, however, are not of such concern that they meet the LADO threshold.

The strategy required for managing a case at this level are less complex than a referral, where the police and children's services may take an active role and they typically require less 'active' management by the LADO service or other agencies. In such cases, the employer will be supported to manage the matter to its conclusion. The LADO service would work to support this process and request details of any internal investigation and outcome, providing independent allegation management oversight and scrutiny.

If further concerns are raised during the internal process that change the direction of the investigation, the consultation can be stepped up to a full LADO referral pathway.

The LADO actively monitors timescales and quality assures the safeguarding outcome.

Examples within this pathway could include:

- A professional who works with children is a victim of domestic violence or other difficulties within their home context and their own children are subject to assessment by children's social care.
- A member of staff has handled a child in a rough manner; however, the child did not sustain an injury. There have been no previous concerns about this worker and there are no other factors that would require the case to be further escalated.

Referral Pathway

Where there is a clear concern that a person in a position of trust has acted in way that meets the threshold criteria for a LADO referral pathway. This may be due to one allegation, an emerging and / or cumulative pattern of concerns or specific complicating factors. The LADO service provides independent safeguarding scrutiny and liaises with all agencies to ensure that all safeguarding aspects are considered fully, along with ensuring appropriate support is provided for the child or children involved and for the subject of the allegation.

The LADO focus is on ensuring the allegation or pattern of harmful behaviour to children is reviewed in a comprehensive and timely manner. A referral pathway usually results in a Joint Evaluation Meeting (as detailed below). In some cases, this meeting is not always required, and a LADO referral pathway can conclude without a Joint Evaluation Meeting.

12. Joint Evaluation Meetings

A Joint Evaluation Meeting provides the multi-agency opportunity to draw together all the relevant evidence and information from the police, children's social care, the employer, and any other relevant agencies to enable a LADO outcome to be reached and for any further recommendations to be made in terms of actions relating to the specific case or in terms of wider learning for the organisation and other involved agencies. Joint Evaluation Meetings include consideration of:

- The allegation – what we are worried about? (past harm, future harm, complicating factors)
- How the allegation was followed up and by whom (What happened next and what is working well)
- The voice of the child
- The LADO outcome
- Further actions, recommendation and wider learning identified (future safety)
- Safety Statement

The police and children's social care should inform the LADO of the conclusion of any criminal investigations, section 47 investigations or children and families assessments related to any child or children involved in a LADO case. The employer should also inform the LADO of any internal investigations and any capability or disciplinary actions that are taken.

After the Joint Evaluation Meeting, the minutes will be distributed within 10 working days to all invitees.

Usually, a Joint Evaluation Meeting is held at the end of the LADO process, however, where there are complex issues to be considered, a Joint Evaluation Meeting can be convened at the start of the process to ensure that all agencies are clear on the agreed actions. Where required, review Joint Evaluation Meetings can also be convened to monitor progress and provide further direction. These are particularly relevant where criminal investigations are being completed or management reviews are being progressed within the secure estate.

13. LADO Outcomes

For all allegations that meet the threshold for the LADO referral pathway, a clear LADO outcome is identified to conclude the process.

There are **5 possible outcomes to the LADO referral pathway**. It is the responsibility of the LADO to decide upon and set out their rationale / evidence base for the LADO outcome.

Substantiated

An allegation that is judged to be *Substantiated* means that after considering all available information there is sufficient evidence, on the balance of probability, that the allegation is proved. This may require obtaining corroborative evidence or statements from potential witnesses/medical practitioner. Whilst the LADO process may have concluded with a Substantiated outcome, this sits separately to any ongoing or further Police action. Equally, if the Police enquiries reach a conclusion of no further action, the LADO outcome can still be one that is Substantiated.

Unsubstantiated

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

Unfounded

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

Malicious

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

False

The term “false” means that there is sufficient evidence to disprove the allegation.

14. Referrals to the DBS and Regulatory Authorities

A referral should be made to the DBS when an employer or organisation has dismissed or permanently removed an individual from regulated activity, either because a person has caused harm to children or vulnerable adults, or they pose a future risk of harm.

Employers and organisations have a duty to progress a DBS referral within these circumstances. The LADO service along with other statutory services have the power to refer where necessary, and those with a duty to refer, have not done so.

Once the referral is received, the DBS will review the information and consider if the subject of the allegation needs to be added to the barred list. Full details about DBS referrals can be accessed at:

<https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs>

Alongside the DBS, there are also a range of regulatory authorities responsible for different professions. Dependent on the specifics of the case, referrals may also need to be considered for them. For example, OFSTED, the Teacher Regulatory Authority, Social Work England, the General Medical Council or the Nursing and Midwifery Council. Details of their referral processes are available on their websites.

15. Resignation

If the subject of an allegation resigns or ceases to provide their services whilst an allegation is being investigated, this should not halt or prevent the conclusion of the allegation management process. Employers should complete their internal investigations and identify any capability or disciplinary actions. This is good safeguarding practice, applying a wider safeguarding lens and supporting safer recruitment processes. The LADO pathway should be progressed to conclusion.

By the same token, ‘settlement agreements’, (previously known as compromise agreements), by which a person agrees to resign if the employer agrees not to pursue disciplinary action, and both parties agree a form of words to be used in

any future reference, it is best practice such agreements are not be used in these cases. A settlement agreement will not prevent a police investigation where that is appropriate, nor does it override the statutory duty to make a referral to the DBS.

16. Employment References

Employment references should be accurate and fair. With cases in which an allegation was concluded to be false, unsubstantiated, unfounded or malicious, these should not be included in an employment reference. However, where the allegation has been **Substantiated**, there is a duty on the employer to include in the reference.

17. Wider Learning for the Setting and the Service

At the heart of all LADO practice is the opportunity to identify good safeguarding principles and practice as well as areas for learning, whether this is for specific organisations or for wider dissemination for agencies who have safeguarding responsibilities for children.

The LADO will always apply a wider safeguarding lens and support agencies to strengthen their arrangements for safeguarding children. The LADO service will provide advice and guidance to agencies about safer recruitment to ensure that those who are responsible for the safeguarding of children are satisfied that due process has been followed.

18. Timescales for LADO Processes

The following targets should be achieved in all but truly exceptional cases:

- 80 per cent of cases should be resolved within one month,
- 90 per cent within three months,
- All but the most exceptional cases should be completed within 12 months.

19. Challenge and Escalation

Whilst it is expected that all agencies will work constructively and effectively together through the allegations management process, the LADO service will use the MSCP Challenge and Escalation Policy where required to ensure multi agency co-operation and communication. Please see below for the link:

<https://www.medwayscp.org.uk/mscb/download/downloads/id/298/mscp-challenge-and-escalation-policy.pdf>

20. Record Keeping

All those involved in managing allegations against the individual working with children, including the person to whom the allegation is made in the first instance, should make clear, accurate and comprehensive records which should be signed, dated and timed. The record should provide details of the allegation, how it was followed up and resolved and notes of any action taken, and decisions made. A comprehensive summary of this should be made and a copy kept on the personnel file and copy of given to the individual unless this action would compromise any criminal investigation.

Comprehensive notes should be made of any strategy and evaluation discussions which are agreed by and distributed to all present. These should be held on the confidential personnel file but not shared with the individual concerned. The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where future DBS Disclosures reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation if an allegation resurfaces after a period of time.

The record should be retained at least until the person has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

The Information Commissioner has published guidance on employment records in its Employment Practices Code and supplementary guidance, which provides some practical advice on employment retention. Here is the link –

https://ico.org.uk/media/for-organisations/documents/1064/the_employment_practices_code.pdf
(Part 2 - Employment Records, Page 31)

21. Feedback to the LADO Service, Concerns and Complaints

As a service, we welcome feedback and seek from employers and organisations as well as multi agency partners on a case-by-case basis. Please also see the link below to the online feedback form:

<https://www.medwayscp.org.uk/mscb/downloads/file/18/lado-feedback-form>

As part of Medway council, should an organisation or individual wish to make a complaint regarding the LADO service, they should use the council complaints procedures, which can be accessed via the following details:

- email sccm@medway.gov.uk
- phone 01634 333 036
- text 07712 391 459
- write to Social Care Complaints Manager, Gun Wharf, Dock Road, Chatham, ME4 4TR

