EDUCATION & YOUNG PEOPLE'S SERVICES DIRECTORATE

Safeguarding Children in Education

SAFEGUARDING PROCEDURES FOR MANAGING ALLEGATIONS AGAINST STAFF WITHIN SCHOOLS AND EDUCATION SERVICES

Adopted by the Governing Body of Shoreham Village School, March 2023
Date of Review: March 2025

Procedures to be read in conjunction with KSCB Operational Guidelines for the Local Authority Designated Officer function.

Contents

EDUCATION & YOUNG PEOPLE'S SERVICES DIRECTORATE

SAFEGUARDING PROCEDURES

MANAGING ALLEGATIONS AGAINST STAFF (Schools and Education Services)

1. INTRODUCTION

1.1 This procedure is informed by 'Working Together to Safeguard Children' (2013), the Kent Safeguarding Children Board Procedures (section 11) and related guidance (Safeguarding Children - Operational Guidelines for Managing Allegations Against Members of the Children's Workforce). In addition the Education Act 2002 (Section 175) and Section 11 of the Children Act (2004) place a statutory responsibility on LAs and governing bodies to ensure that schools/services have procedures in place for safeguarding and promoting the welfare of children. This Procedure has been agreed and promulgated by representatives of Kent County Council, agency partners on Kent Safeguarding Children Board, and the following trade unions: NUT, NAHT, SHA, PAT, ATL, UNISON and GMB.

1.2 Employees should also be aware of legislation under the Sexual Offences Act 2003 that makes it an offence for those in a position of trust to have a sexual relationship with a young person under the age of 18 years who is currently being cared for or educated by the individual.

1.3 Revised guidance issued by the DfE in 2015 (*Keeping Children Safe in Education*) also introduced a new outcome category of **False** Allegation and removed the previous outcome category of **Unfounded** These changes have been incorporated into the revised LADO outcome form.

1.4 Legislation issued under section 13 of the Education Act 2011 also introduced an anonymity clause for teachers who are subject of an allegation. It is now an offence for anyone to put sensitive information regarding an allegation against a teacher into the public domain prior to any charge or subsequent court appearance. Headteachers and Governing Bodies need to pay particular attention to this legislation when dealing with enquiries from parents or the media.

2. KENT SAFEGUARDING CHILDREN BOARD PROCEDURES

2.1 A copy of the Kent Safeguarding Children Board Safeguarding Procedures is available to any member of staff, on request, from the Headteacher or the Designated Safeguarding Lead. Headteachers and managers should ensure that all staff are aware of this and can access a copy. This Procedure outlines the principles of child protection, definitions of abuse, powers of statutory agencies and roles and responsibilities of multi agency staff within the children's workforce. A copy of the KSCB procedures can also be accessed on line at www.kscb.org.uk .

2.2 Employees working in schools/services have a responsibility to report all allegations of child abuse and to alert others where appropriate if they suspect that child abuse may have occurred. The specific arrangements for reporting such concerns are set out in detail in this procedure. An appropriate referral to Specialist Children's Services will ensure that the statutory agencies can fulfil their child protection responsibilities.

2.3 If an allegation of abuse is made against a member of staff, immediate consultation is required with the Local Authority Designated Officer who fulfils the operational LADO function as outlined in *Working Together to Safeguard Children (2015)*. **This consultation must take place prior to any form of investigation being undertaken by the school or service and before the member of staff is made aware of the allegation.** Any allegation against an employee should lead to careful consideration of the possibility of abuse and of a referral being made of any concerns to the statutory agencies if it is considered that the threshold of significant harm has been reached and a person who works with children has:

- behaved in a way that has harmed, or may have harmed a child
- possibly committed a criminal offence against or related to a child; or
- behaved towards a child or children in a way that indicates s/he poses a risk of harm if they work regularly or closely with children.

Staff also need to be aware that if their own child/children come to the attention of the statutory agencies for child protection, then issues of suitability will need to be considered by the employer (as outlined in the KSCB Operational Guidelines). This is outlined with other suitability criteria under the Disqualification Regulations (Child Care Act 2006) which applies to those working within the Early Years Foundation Stage (EYFS).

2.4 It is the responsibility of the Head of Service/Governing Body and the Headteacher to ensure that all employees are aware of their responsibility to report any allegation or possible concern of a child protection nature. Failure to report may (a) put a child at risk and (b) imply a breach of the employee's contractual duty. Staff must be aware of this procedure, understand their responsibilities and know where in the school/service a copy of the procedure is to be found.

2.5 A child who reports that he/she may have been abused by an employee of the school/service, must be carefully listened to in all circumstances. 'Listened to' means just that; on no account should suggestions be made to a child as to alternative explanations for his/her worries; neither should any member of staff attempt to question the child as part of any investigation, as this could lead to primary evidence for any future investigation being compromised.

2.6 Staff cannot promise total confidentiality to pupils who disclose allegations. Staff should make this clear to children who approach them, whilst also offering reassurance that they have a right to be heard and that their allegation will be taken seriously.

2.7 All Kent County Council employees, in addition to those employed to work in schools have a duty to assist the statutory child protection investigation agencies by ensuring any possible allegation or concern is reported to an appropriate person and by co-operating with any investigative process, if/when required.

2.8 Employees must be aware of the need to avoid impeding an investigation, e.g., by publicising the allegation or providing the opportunity for evidence to be obscured or destroyed. In cases where the Police or the Crown Prosecution Service have decided against a criminal prosecution, staff employed in Kent schools/services must continue to co-operate fully with any internal disciplinary investigation that may follow.

2.9 All risk assessments and responses to concerns undertaken as part of this procedure will be conducted in a reasonable, proportional and transparent manner. The procedure will be applied fairly and transparently in line with KCC's Equality of Opportunity Policy and Disability Discrimination Legislation.

3. ROLE OF THE RESPECTIVE AGENCIES IN AN INVESTIGATION

3.1 There will be three possible types of investigation:

1) By Social Services and the Police under Section 47 of the Children Act 1989
2) By the Police under criminal law, and:
3) By the school/LA in line with staff disciplinary procedures.

3.2 Any disciplinary process should be clearly separated from the child protection or criminal investigations. The disciplinary process may be informed by these other investigations and in some circumstances the child protection agencies might decide to make a **recommendation** about suspension or other protective action as a result of a strategy discussion. The child protection or criminal investigation has different objectives from the disciplinary procedure and the two processes should not be confused.

3.3 The Role of Specialist Children's Services

Specialist Children's Services has a duty to investigate cases where there is reasonable cause to believe that a child has suffered, or is likely to suffer, significant harm. On receiving a referral relating to an allegation against a member of staff which reaches the threshold of abuse, SCS (Central Referral Unit unless child is an open case)) will call an initial strategy meeting in line with KSCB procedures. This meeting will define whether a joint investigation is necessary under section 47 of the Children Act 1989.

At any point during a subsequent investigation, SCS and the Police may agree that the investigation be terminated. This will either be because enquiries lead them to a conclusion that the child has not suffered the alleged harm or they are satisfied, where harm has occurred, that there is no likelihood of it recurring.

Such decision will be ratified at an outcome strategy meeting with recommendations for further action by the employer as appropriate. (ie conducting an internal disciplinary investigation). It is important to recognise that the purpose of the child protection investigation is to determine, on the balance of probability whether a child has suffered significant harm (abuse) and, if so, to eliminate the likelihood of further abuse.

The staff undertaking child protection investigations on behalf of the SCS are trained and experienced in doing so. They will handle cases sensitively and professionally, so that a thorough, independent investigation can be undertaken.

3.4 The Role of the Police

The Public Protection Unit of the Kent Police comprises a team of officers specialising in child protection. The officers are specially selected and trained

for working with vulnerable persons and they will undertake most interviews with children in line with Achieving Best Evidence procedures.

In the event of an allegation being made against a member of staff, it is possible that they will be invited for interview at a police station or arrested by Kent Police. In these circumstances the member of staff should be able to access free legal advice. Normally the interview and/or arrest will not take place on school premises.

The Police are responsible for investigating allegations which indicate that a crime has been committed. The Crown Prosecution Service will then take any decision on whether or not to formally prosecute based on the strength of evidence and the public interest test.

3.5 The Role of the Local Authority

The Local Authority Designated Officer is responsible for the oversight and management of allegations. Any allegation against a member of staff must be reported immediately to the Area LADO who fulfils the function at a local level. This consultation will determine whether the allegation reaches the threshold of **significant harm** to justify a referral to SCS. The LADO may wish to consult with colleagues in Social Care if there is any doubt about the need to refer the matter.

If the consultation discussion determines that the allegation does meet the criteria for referral to SCS as a child protection concern, the LADO will provide support to the school/service in making the referral and throughout the subsequent process as required.

The LADO will attend any strategy meetings that are convened and liaise closely with the school/service and the Personnel Consultant representing the Authority or the school. The LADO will also ensure that other key LA officers are informed according to the circumstances of the case and this may include the Press Office in certain circumstances that are likely to attract media interest.

Should it be determined at the initial point of consultation with the LADO that the allegation does not meet the threshold for a child protection referral to social care, then the LADO will advise on further action that may be taken by the school/service in investigating the matter internally in line with the staff disciplinary procedures. This will again require close liaison with the personnel provider. The Education Safeguarding Team would not normally be involved in an internal management investigation unless the role of expert witness or investigating officer was specifically commissioned by the school or service. In such circumstances the roles need to be clearly defined in terms of objectivity and impartiality.

3.6 The Role of the School/Service

The school/service has a duty to co-operate fully with an investigation undertaken by the Police and SCS under section 47 of the Children Act 1989 and the LADO will provide support throughout this process. School staff have

a key role in reassuring and supporting the child who is the alleged victim. Employers also have a duty of care to the member of staff who is the subject of the allegation and support will be facilitated in line with the staff disciplinary process.

The task of investigating the allegation under disciplinary procedures is set out below and is separate from the investigations conducted by Social Services and the Police.

Under no circumstances should the school/service initiate an internal management investigation into an allegation against a member of staff until a consultation has taken place with the Local Authority Designated Officer. Internal management investigations should only be pursued once the Police have concluded their involvement or it has been deemed unnecessary to refer the matter to refer the matter for section 47 investigation at the initial consultation with the LADO due to the allegation not reaching the significant harm threshold of abuse.

In exceptional circumstances it may be possible for a criminal investigation and an internal investigation to run concurrently but this should only be in the most severe of cases after discussion with the Police to ensure that primary evidence is not compromised. This matter is more straightforward when the member of staff has pleaded guilty to an offence.

The school or service has a statutory duty to comply with Child Protection Procedures and this will include ensuring that all staff are familiar with the process and understand their responsibilities to report a concern. **When in doubt – consult.**

4. REPORTING AN ALLEGATION OR A CONCERN

4.1 When a complaint of abuse is made against an employee on behalf of a child there should be immediate consideration of whether a child or children is/are at risk of significant harm and in need of protection.

4.2 Any employee who becomes aware of a possible allegation or concern of a child protection nature must take immediate steps to ensure the matter is reported to the Headteacher/Head of Service or the school's Designated Safeguarding Lead. In the event that neither the Headteacher/Head of Service or the DSL is available then the matter should be reported to the Deputy. Individuals with concerns must be encouraged to report this as quickly as possible and to the most senior person available at the time. An investigation may be impeded if a concern is reported late and/or is communicated through several individuals before Headteacher/Head of Service or DSL, and it is important that the school establishes at this stage who the lead contact will be for liaison purposes.

4.3 In the event that the allegation or concern involves the DSL then the matter must be reported directly to the Headteacher. **Should the allegation or concern involve the Headteacher then the matter must be reported to the DSL who must also refer the matter to the Chair of Governors. In cases where the Headteacher is also the DSL (as in many Primary Schools) the matter should be reported to the Chair of Governors**. If the allegation is against the Head of Service (HOS) then the matter should be reported to the relevant Director within E&YPS. At all times any report of any allegation or possible concern will be dealt with in the strictest confidence, and if necessary staff can raise concerns directly with the Principal Officer (Safeguarding in Education) with full protection under the Public Disclosure Act 1998 ('Whistle-blowing'). The Education Safeguarding Team can also provide advice and support to Chairs of Governors when an allegation has been made against the Headteachers.

4.4 In all cases, the Headteacher/Head of Service, (or the DSL in cases where the Headteacher is involved), must have an immediate preliminary consultation about the allegation or concern with the LADO who will advise on further action in accordance with this procedure as appropriate. This is not the beginning of an investigation, but part of the basic information gathering process. This advice will include who should be made aware that an allegation or concern has been raised.

4.5 The reporting member of staff, i.e., Headteacher/Head of Service, DSL, individual employee or governor must also seek the advice of their Personnel Services Provider regarding issues of process, responsibilities and communication.

4.6 Voluntary Aided Roman Catholic Schools should also inform the Archdiocese of Southwark Kent Schools' Commission and Voluntary Aided Church of England Schools should also inform the Canterbury or Rochester Diocesan

Board of Education; the appropriate Director within Education is the contact in each case.

4.7 It is important that the member of staff reporting the concern acts quickly. Establishing whether an allegation warrants further investigation or consultation is not the same as forming a view on whether the allegation is to be believed. **The Headteacher/Head of Service or any other employee or governor to whom an allegation has been reported**, **is not expected to investigate the allegation, or interview pupils, but to assess, after consultation with the LADO how the matter will proceed. Confidentiality must be maintained throughout this stage in order that any subsequent investigation is not prejudiced and that the interests of all parties are protected.**

4.8 Where the allegation relates to the use of physical intervention to restrain a pupil (Section 93 of the Education and Inspections Act 2006 enables school staff to use such force as is reasonable to keep a situation safe), the Headteacher/Head of Service should consult with the LADO in the first instance as this may be appropriately managed within the school. It is important for this consultation to take place to demonstrate that the school has acted in an open and transparent manner in establishing if the allegation meets the threshold for referral. An allegation of assault beyond the use of reasonable force however, would need to be referred to SCS as a child protection matter.

5. CONSIDERING WHETHER SUSPENSION IS APPROPRIATE

5.1 The suspension of an employee, particularly in situations of potential child protection allegations will have a significant impact on the individual and therefore it is essential that the facts of the case, as they are known and alternative courses of action are carefully considered in deciding whether to suspend. The specific arrangements for the suspension of staff are set out in the school's/KCC disciplinary procedure (reference document: Discipline at Work 2003), but it should be recognised that suspension is a neutral act to protect the interests of both parties and not an assumption of guilt. It is also essential that the Disciplinary Procedures are followed in terms of providing appropriate support to the individual throughout the period of suspension.

5.2 The decision to suspend is taken by the Headteacher and/or the Governing Body and not by the Police or SCS. However, Social Care, in collaboration with other agencies, may advise the Directorate and the school of any action recommended to ensure the protection of children, protection of employees and safeguarding of information.

5.3 In the event of the suspended member of staff living in school accommodation on site, then alternative arrangements will need to be negotiated in the best interests of the children, the school and the member of staff concerned.

5.4 Being suspended or asked to refrain from work can give rise to great anxiety for the
individual subject to the allegations. They may fear that colleagues and others within the school/community will have interpreted the very act of suspension as an indicator of presumed guilt from an early stage, and may feel particularly isolated and vulnerable.

5.5 Any member of staff subject to an allegation should be encouraged to seek advice and support at the earliest opportunity from their professional association or trade union. It must also be acknowledged that the whole school/community may be affected by a staff member's suspension, and consideration should be given to necessary support strategies to address this.

5.6 The need for support is equally applicable when considering a staff member's return to work. Suspension should be retained for as short a length of time as possible and if it is agreed a staff member is to return to school/work, careful planning needs to take place as to how this situation can be managed as sensitively as possible.

5.7 <u>Initial considerations</u>

It may not be immediately obvious that suspension should be considered, and this course of action sometimes only becomes clear after information is shared with, and discussion had, with other agencies.

In some cases early or immediate suspension may impede a Police investigation, and therefore the decision whether to suspend may have to be

delayed until sufficient evidence has been gathered. Suspension should be avoided in such cases wherever possible, and should not be seen as an automatic response to an allegation. This applies to the possible suspension of Headteachers as well as other staff. Suspension should only follow after discussion with the lead officer. The decision to suspend remains the responsibility of the Headteacher or Governing Body (for schools) and the relevant Director (LA staff).

When considering suspension it is important to have regard to the following factors:

- The nature of the allegation
- Assessment of the presenting risk
- The context in which the allegation occurred
- The individual's contact with children
- Any other relevant information
- The power to suspend
- Alternatives to suspension

Suspension should only be applied if one or more of the following grounds apply:

- A child or children would be at risk
- The allegation is so serious that summary dismissal for gross misconduct is possible
- It is necessary to allow any investigation to continue unimpeded

5.8 Alternatives to suspension

While weighing the factors as to whether suspension is necessary, available alternatives to suspension should be considered. This may be achieved by:

- Leave of absence
- Undertaking different duties which do not involve direct contact with the individual
  child or other children
- Providing a classroom assistant or other colleague to be present throughout contact
  time.

If the member of staff is not based in a school then an alternative may be to:

- Undertake office duty
- Undertake non contact tasks only

5.9 Action Plan

The Children Act 1989 established the principle that the interests of the child are paramount. This, however, must be considered alongside the duty of care to staff. Any individual subject to allegations should, regardless of the decision to suspend or otherwise, be offered welfare support. Where possible, a means

of monitoring the take up and effectiveness of welfare support without compromising confidentiality or trust should be sought. Where suspension is being considered, the duty of care requires the Head Teacher/Head of Service to ensure that appropriate support is available to the member of staff. In the case of an allegation against the Head Teacher, this responsibility lies with the Chair of Governors (or nominated Chair). Agreement must be reached with education personnel (and police where appropriate) as to how information will be shared and contact maintained with the member of staff throughout the investigative process. This should include agreement as to:

- How the member of staff will be kept updated about the progress of the investigation,
- How support and counselling are to be offered: and
- How links will be maintained with the school so that the staff member is kept informed of other matters occurring within the school.

5.10 Confidentiality

The Head teacher, Chair of Governors (or nominated governor) and LA officers have a responsibility to safeguard confidentiality as far as is possible. Sensitive information must only be disclosed on a need to know basis with other professionals involved in the investigative process. Other people may become aware of the allegation and may not feel bound to maintain confidentiality. Therefore consideration should be given on how best to manage information, particularly in relation to who should be told what, when and how. This is particularly relevant in respect of parents, carers and the media in light of new legislation and the anonymity clause (referenced in 1.4)

5.11 Planning and Recording

It is essential to record the decisions reached and the rationale behind them. Records should also be made of the agreed action and strategies to manage the situation. The plan should clearly indicate the following:

- Any restrictions to normal contact or activity,
- Issues of contact with children,
- Arrangements for monitoring and welfare support in relation to the member of staff.
- Monitoring the support available for the child.

It is important for the LA lead officer to keep a record of the actions taken in the course of the investigation and, where relevant, the process and conclusion of suspension is undertaken as quickly and fairly as possible. If individuals have specific tasks or responsibilities to carry out, this should be noted and followed up. Agreed strategies for managing and sharing information should be included here. In addition, the member of staff should be informed of the decisions taken at the earliest opportunity.

6. DISCIPLINARY INVESTIGATION

6.1 No action under the disciplinary procedure should be taken in circumstances which might interfere with the criminal investigation. Child protection and criminal investigations shall be treated as paramount and any further action under disciplinary procedures may therefore have to await full completion of the child protection and criminal investigations, but will be undertaken as soon as possible.

6.2 Once any child protection investigation has been completed and the matter is not proceeding to court, a decision should be taken by the appropriate person in the school/service, as whether to investigate under the disciplinary procedures. The school/service will need to consult with its Personnel Provider prior to reaching a decision on this. In addition the school or service must seek advice from the LADO in all cases if the safeguarding of children's welfare remains an issue within the school/service.

6.3 At the request of the Governing Body/Assistant Director, a nominated representative may be appointed to conduct the investigation where it is inappropriate for the Headteacher/Head of Service or other member of the school's leadership group to do so, e.g., where the Headteacher/Head of Service knowledge might prejudice a fair hearing, where he/she is implicated or when the Governing Body believes it is in the best interests of the school. The investigation will be undertaken in accordance with the school's disciplinary procedure (see separate document).

6.4 The position of the employer, in coming to a reasonably held view is not analogous with the decision to be made by a criminal court. The employer is able to come to a reasonably held view **'on the balance of probability'**. The disciplinary investigation must gather evidence objectively establishing the facts where possible and follow the principles of fairness, reasonableness and natural justice.

6.5 Where allegations of child abuse are received against an employee at the school, the LADO will take responsibility for ensuring that relevant information, as defined by the Investigating Officer, resulting from a child protection investigation is made available to the school's/service Personnel Consultant and the Headteacher/Head of Service (where appropriate), in order to inform a decision about a possible disciplinary investigation.

6.6 Evidence derived from the child protection investigation or criminal investigation (e.g., statements, exhibits, video-recorded interviews with children) may be available for use in subsequent disciplinary proceedings, particularly where the witnesses are the same. If access is sought to such material a formal application should be made via the LADO to Kent Police in line with the agreed protocol. (It should be noted that the Branch Crown Prosecutor will be cautious about releasing any prosecution material until the criminal proceedings have been concluded and will only consider doing so upon a valid request being made in writing.)

6.7 Where no criminal prosecution is pending or intended, advice from the Kent Police Solicitor's Department on the release of material should be sought through the LADO who has established a protocol with the Kent Police on behalf of the LA to ease this process. Witnesses may include Police Officers and social workers who have interviewed the child/ren. SCS should usually release the minutes of strategy meetings and, where necessary, provide additional reports. (Protocol for release of evidence is included in Appendix.)

6.8 Whether it is appropriate to call children as witnesses will depend on their age, understanding and capability. However, the attendance of children at any hearing would be in extremely unusual circumstances and will only occur following careful consultation with all interested parties including the parents of the child/ren.

6.9 If a decision is taken to proceed with a disciplinary investigation, the employee should be informed, in writing, as required under the disciplinary procedure. It is advisable to confirm this position in a meeting with the employee and their representative.

6.10 If a decision is taken not to proceed with a disciplinary investigation, the employee should be invited to a meeting with a union representative or workplace colleague, to explain the circumstances of the decision and confirm this in writing.

6.11 Those involved in the investigation of the complaint or the continuing management of the situation at the school cannot hear consequent disciplinary cases, since they may receive information that may prejudice a fair hearing of the complaint. Governors who are to hear disciplinary appeals must not be involved in the investigation of the complaint or the disciplinary hearing.

6.12 The school/service will need to make appropriate arrangements to notify the parent/guardian of the child/ren of the outcome of the investigation/hearing and will take advice from the Personnel provider and the LADO regarding the nature of information that can be disclosed.

6.13 Time-scales

DfE guidance states that "*the quick resolution of the allegation should be a clear priority to the benefit of all concerned. Any unnecessary delays should be eradicated."*

1 If the nature of the allegation does not require formal disciplinary action, the Headteacher should institute appropriate action within **3 working days.**

2 If the evidence indicates that a disciplinary hearing may be required then the process will be completed as quickly as possible and without unavoidable delay within the requirements and timescales of the school's adopted disciplinary procedure. The employee must be kept regularly informed of the progress in this event.

7. REFERRAL TO THE DISCLOSURE AND BARRING SERVICE

7.1 The Secretary of State's powers to bar or restrict a person's employment are contained in section 142 of the Education Act 2002. The relevant regulations, setting out the procedure to be followed now sit under the Vulnerable Groups Act 2006 (List 99 was replaced by the ISA Barring list which in turn has now been replaced by the **Disclosure and Barring Service)**

A relevant employer, or agent (eg a teacher supply agency), is required to provide a report to the DBS where they cease to use a person's services, or a person is dismissed or resigns before a disciplinary process is completed, because they are considered unsuitable to work with children, as a result of misconduct, or because of a medical condition that raises a possibility of risk to the safety or welfare of children. **A compromise agreement does not override the statutory duty to report the matter and such an arrangement should not be considered if the concern was of a safeguarding nature.**

These reporting arrangements apply to anyone who works in a school, including volunteers, regardless of what they do. They also apply to staff convicted of a criminal offence against children outside the work setting, when notification may be through the police.

Anyone subject to a direction under section 142 of the 2002 Act given on the grounds that they are unsuitable to work with children is also disqualified from working with children. 'Work' includes people in unpaid employment, employed under contract, people undertaking work experience and volunteers.

There is an additional requirement that residential special schools report such matters to Ofsted. It is the responsibility of the employing body to make this referral, and to inform the individual of its' statutory duty to do so.

Further information on the Disclosure and Barring Service and the process of referral to the barring list can be found at www.homeoffice.gov.uk/dbs

8. RETENTION OF RECORDS

8.1 The Information Commissioner Code of Practice: Employment Records 2002 states that **"records of allegations about workers who have been investigated and found to be without substance should not normally be retained once an investigation has been completed. There are some exceptions to this where for its own protection the employer has to keep a limited record that an allegation was received and investigated, for example where the allegation relates to abuse and the worker is employed to work with children or other vulnerable individuals."**

8.2 Records of investigations into alleged offences against children must be maintained, in order to identify patterns of concerns. A factual record of the details of all allegations and a written record of the outcome, will be retained. This information will be held by the LADO in line with the responsibilities of the LADO function.

8.3 The employee and/or his/her representative will be informed that such records exist, and will be able to seek disclosure within the parameters of the GDPR and Data Protection Act 2018 by putting their request in writing through the appropriate channels.

8.4 An 'outcomes' pro-forma will be requested from the School / Service Manager. The member of staff who was the subject of the allegation has the opportunity to comment as part of the 'outcome' process. This record will be retained on the individual's personnel file held by the employing body within the terms of the schools/LA Disciplinary Procedures. Such records will be retained in line with Guidance provided by the Information Commissioners Office which states *'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'.* **It is important to note DfE Guidance states "cases in which an allegation was proven to be false, unsubstantiated, or malicious should not be included in an employer's reference.**

8.5 Where a pupil has made an allegation, a copy of the statement or the record made of it, should be kept on the section of a pupil's child protection file, which is not open to disclosure, together with a written record of the outcome of the investigation. If there are related criminal or civil proceedings, records may be subject to disclosure; and, therefore, no assurances can be given on confidentiality. Any allegation made by a child that is deemed to be **malicious** after external scrutiny should be investigated further to establish what concerns led to such a situation developing. This is in the best interests of the child and the member of staff.

9. GOOD PRACTICE GUIDELINES

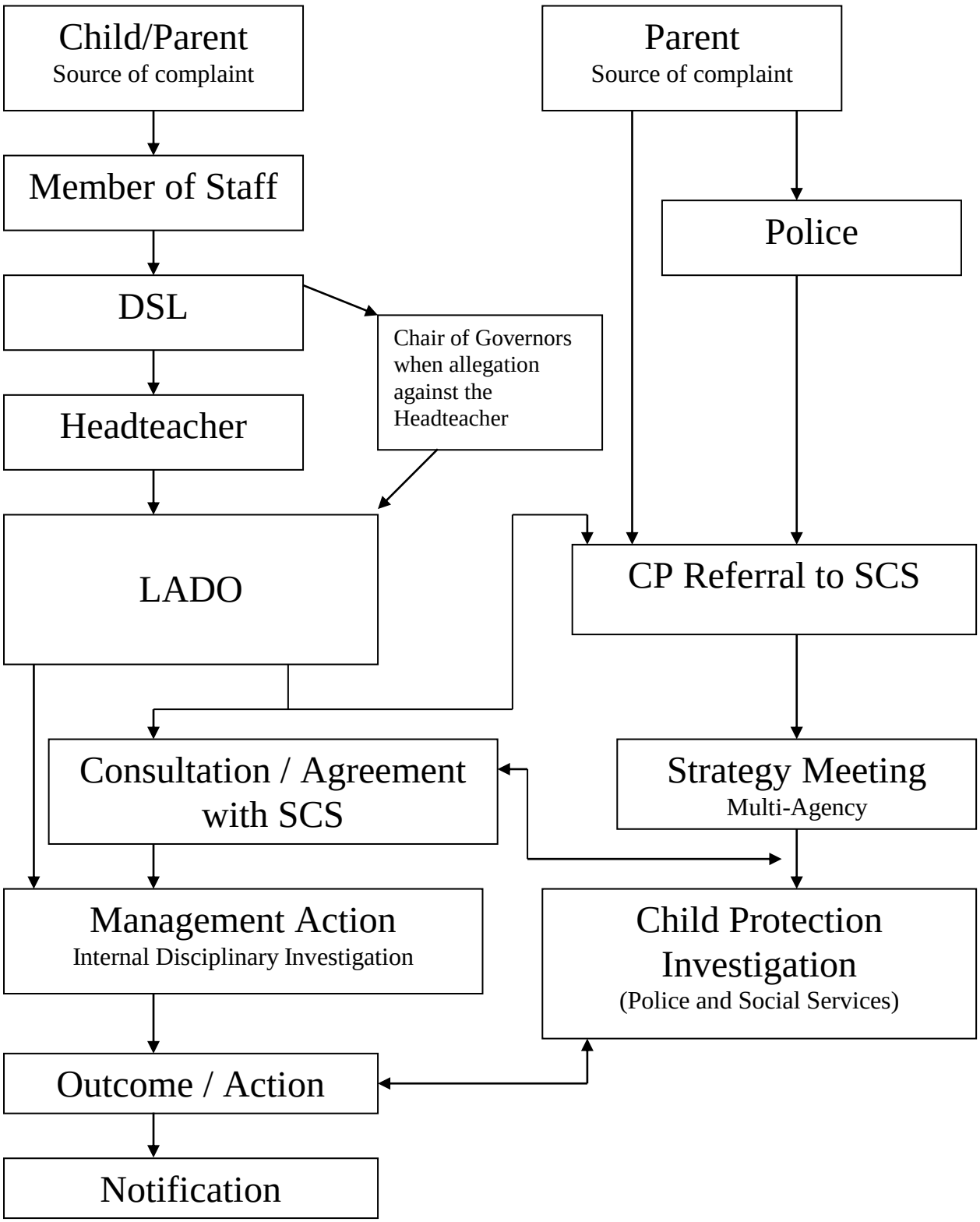
9.1 All schools and service units within the E&YPS Directorate are required to establish a Code of Practice for all staff, which considers the following areas. The Teacher Standards document (2012) provides a clear outline of expectations.

- Out of school contact with pupils.
- Physical contact with pupils.
- Personal care of pupils.
- Relationships and attitudes.
- Extra curricular activity.
- Reporting of incidents.
- Risk Assessment and lone working
- Use of e-mail and mobile phones

'**Guidance for Safe Working Practice for Adults who work with Children and Young People 2009'** (published by the Allegations Management Advisors network on behalf of DCSF). This document can help to inform practice and can be accessed via the Child Protection and Safeguarding page on KELSI.

10. FLOW CHART

CHILD PROTECTION – ALLEGATIONS AGAINST STAFF



KENT COUNTY COUNCIL

Protocol Agreed with Kent Police for the Release of Evidence

1. In line with the requirements of DfE Guidance**: Working Together to Safeguard Children** the local authority has agreed a protocol with Kent Police for the release of evidence to inform Internal Disciplinary processes following the conclusion of Police involvement in the case.

2. "*Wherever possible the Police should obtain consent from the individuals concerned to share the statements and evidence they obtain with the schools for disciplinary purposes. That should be done as their investigation proceeds rather than after it is concluded. That will enable the Police to share relevant information without delay and the conclusion of their investigation or any court case*". (DfES 2006:244) The release of such evidence is vital to inform disciplinary investigations and to avoid witnesses, particularly children, having to be interviewed again.

3. To ensure that a consistent format is applied it has been agreed that all requests for the release of evidence should be channelled through the Children's Safeguards Team who provide support and guidance to schools whenever an allegation is made against a member of staff. This will avoid Kent Police being approached by a variety of schools. Chairs of Governing Bodies or Personal Advisers who would need to be validated before evidence is released.

4. Once the evidence has been received by the Local Authority Designated Officer (LADO) he will liaise closely with the School \ Service and Personnel Provider to ensure that information is shared appropriately.

5. In cases where statements have been taken from children via video recording in line with procedures for Achieving Best Evidence, a transcript of the recording prepared for court will be provided. In cases that do not proceed to court, however, it is unlikely that a transcript will have been taken. Under these circumstances it is unlikely that the video evidence will be released, as disclosures may be evident that have no bearing on the disciplinary investigation being undertaken. In such cases Kent Police have agreed to provide a summary of the evidence that is relevant to the disciplinary investigation.
   It is recognised that this will not constitute primary evidence, but such information from Kent Police should suffice to inform a disciplinary process where the burden of proof is based on "balance of probability".

6. Information shared must be treated in the strictest of confidence and should only be made available to those involved in the disciplinary process.

Paul Startup **LADO Manger**	**DCI Tim Smith** **Detective Inspector PPU** **Kent Police**
Date	**Date**

Kent County Council Local Authority Designated Officer

RELEASE OF EVIDENCE REQUEST

To: DCI Tim Smith
PPU - Force Headquarters, Sutton Road, Maidstone, Kent, ME15 9BZ

From: – Local Authority Designated Officer

Date:

It is understood that:

A Kent Police have undertaken a criminal investigation into the conduct of a member of staff for whom Kent County Council now wish to undertake an internal disciplinary investigation.

B Consent has been sought from the victim and witnesses to release their statements to KCC.

C Kent Police have concluded their criminal investigation.

The LADO, on behalf of KCC now seeks the disclosure of witness statements and / or ABE Video interviews taken by Kent Police for the sole purpose of use in the internal disciplinary investigation into the conduct of the member of staff. KCC understands that Kent Police policy N21 Child Protection, Clause 9 specifically deals with such a request.

Please accept this pro-forma as a formal request for the release of victim and witness statements and / or crime reports as appropriate

REQUEST FOR RELEASE OF EVIDENCE

Name of Victim/Complainant/Witness: ..... **Date of Birth:** .....

Date of Complaint/Allegation: .....

Name of Accused (member of staff): ..... **Date of Birth:** .....

Home Address: .....

.....

.....

Name and Address of Employer (school or LA service): .....

.....

Tel No:

P.P.U Officer: .....

Police Area Office: ..... **Tel No:** .....

Social Worker (where appropriate): ..... **Tel No:** .....

SCS Area Office: ..... **Tel No:** .....

..... **Tel No:** .....

LADO Making request for release of evidence ..... **Tel No:** .....

Type of Investigation: .....

.....

.....

Date of Final Strategy Meeting (where applicable): .....

Outcome of Police Investigation: .....

.....

.....

Evidence Requested (please tick)

1 Crime Report ☐

2 Initial contact (STORM record) ☐

3 Witness statement (victim) ☐

4 Suspect interview ☐

5 In the absence of above a summary report provided by the Police ☐

Please be assured that the information provided will be treated in the strictest of confidence and will not be used without the prior consent of Kent Police and the witness providing the information.

Thank you for your co-operation in this matter

Paul Startup
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Eurogate Business Park
Ashford
Kent
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