



# **FACTSHEET: Safeguarding Allegations/Concerns about Practitioners and Those in Positions of Trust.**

## **A guide to what happens next.**

Any adult working or volunteering with children or adults at risk may at some point become subject of an allegation that they have harmed a child or adult at risk and /or behaved in a way in their personal life which could put children and adults at risk of harm. This can be a distressing situation but is an essential part of safeguarding and it is essential that any allegation or concerns are investigated.

This information sheet explains what happens when an allegation or concern is made and will help staff who are involved in the procedure.

### **What happens when an allegation or concern is made?**

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The Local Authority has a statutory duty to manage allegations and concerns about any person who works with children and young people and adults at risk in their area. This includes Local Authority staff, staff working for partner agencies including those working for the Health Boards and Police, staff commissioned to look after, or volunteers who work with children or adults at risk. All Local authorities should have an identified senior manager responsible for safeguarding who is accountable and responsible for allegations against professionals and those in positions of trust. This person is known as the Local Authority Designated Officer (LADO)

The Wales Safeguarding Procedures require that the LADO must be informed whenever there is an allegation or concern that a member of staff may have;

- Behaved in a way that has harmed or may have harmed a child or adult at risk
- May have committed a criminal offence against a child or adult at risk or that has a direct impact on the child or adult at risk
- Behaved towards a child, children or adults at risk in a way that indicates they are unsuitable to work with both children and adults
- Behaved in a way (not necessarily towards a child or adult at risk), that brings into question their suitability to work with children or adults at risk.



It can be difficult to determine what may fall into the category of "unsuitable to work with children or adults at risk". The employer should consider whether the subject of the allegation or concern has:

- Been the subject of criminal procedures that indicate a risk of harm to a child or adult at risk
- Caused harm or possible harm to a child or adult at risk and there is a risk in the working, volunteering, or caring environment
- Contravened or continued to contravene their agency's Safeguarding Policy and Procedures
- Failed to understand or comply with the need for clear personal and professional boundaries in the work place
- Behaved in a way in their personal life which could put children and adults at risk of harm
- Behaved in a way that undermined the trust placed in them by virtue of their position
- Children who are subject to Child Protection Procedures
- Has caring responsibilities for an adult who is subject to Adult Protection Procedures

The LADO will discuss with the Local Authority Safeguarding Team Manager and decide what further action needs to be taken and whether or not you should be told about the allegation/concern at this time. In some cases, it may be considered detrimental to an investigation to inform you of the specific nature of the allegation/concern, in such circumstances you will be made aware that a safeguarding concern has been raised. You will be informed of the specific nature of the allegation/concern as soon as it is possible to do so.

It may become clear that the allegation is false or inaccurate, if this is the case you will be informed and no further action will be taken.

## What action may be taken?

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If there are concerns that a child, young person or adult at risk may have experienced harm, a criminal offence may have occurred, or behaviour may have been such that it indicates a person may be unsuitable to work with children and/or adults, the relevant Local Authority Safeguarding Team will hold a strategy discussion with the police. A decision will be made whether a full investigation needs to be undertaken by the police and social workers.

The LADO will be advised of the outcome of the discussions. Your employer will be provided with the information relating to the allegation/concern and will need to consider what action should be taken to reduce any initial risk identified.

If it is considered a full investigation is needed, a strategy meeting will be held. Professionals and Practitioners identified as relevant to the organization or agency you are employed by will be invited to take part in this, as well as Senior Social Care Staff and where there are concerns a criminal offence may have been committed the Police.



## How Will Your Employment Status Be Affected?

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When your employer is made aware of the allegation/concern, a Risk Assessment will be undertaken based on the nature of the allegation/concern and your role and responsibilities. This Risk Assessment will inform what action should be taken pending a fuller investigation.

Employers should satisfy themselves that all reasonable and proportionate options are explored and considered before a decision to make adjustments or suspend is taken. This decision can be amended at any time, should new information become available to indicate the level of risk is higher or lower than initially considered.

**Precautionary Adjustments to Working Practices.** Your employer will provide you with information relating to any precautionary adjustments considered necessary to your working practices.

**Precautionary Suspension.** Your employer will provide you with information relating to any precautionary suspension that is considered appropriate.

Any decisions about a suspension will involve the Human Resources Department and be in line with the employer's process for decisions relating to suspension. Factors that will inform the decision to suspend will include, the nature of the allegation/concern is such that if it were to be true:

- It is felt there is a continued risk to children, young people or adults at risk
- A police investigation will be, or is currently being, undertaken
- The allegation is so serious it could lead to dismissal.

If a precautionary suspension is being considered your manager should meet with you to discuss the matter. You may wish to have a Union representative with you. You will be provided with written reasons for your suspension.

If you are returning to work following a suspension your employer will meet with you in advance to make suitable arrangements for your return.

It should be noted not all staff will be subject to permanent contracts, some may for example be employed temporarily, through an agency or through staff banks or pools, or commissioned services. Information relevant and proportionate to the concern will be shared with any relevant employer or agency. Whilst it will be for the



main employer to put in place the appropriate risk assessment, services that commission the individual may need to carry out their own risk assessment if they plan to continue using that individual's service.

In some cases the police may decide to proceed with a criminal investigation. You may be interviewed under caution or invited to assist the police with their enquiries. You are entitled to receive legal advice or representation, this can be made available to you through your Union or at the police station.

## Internal investigation

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In addition to the Position of Trust process your employer may need to conduct an internal investigation in order to decide how to proceed. It may be conducted by a senior member of staff from within your organisation or by an independent person, depending on the concerns. Where there are criminal proceedings ongoing it may not be possible for an employer to complete their investigation until the criminal investigation is concluded.

If you are employed by an agency, your placing agency will be involved in the investigation, if disciplinary or conduct procedures do not apply, an investigation may still be needed to assess your continued suitability to work with children or adults at risk

Your employer must continue with any action or investigation following an allegation/concern and should try to reach a conclusion regardless of whether you resign or cease to provide your services, or if you refuse to cooperate. For example a compromise agreement must not be used, (where you resign without any disciplinary action being taken and with an agreed reference).

Cases should be dealt with as quickly as possible and are conducted in a thorough and fair manner. There are guidelines as to how long investigations should take, the length of time will depend on factors such as the complexity or seriousness of the concerns or allegation. The LADO will monitor the progress of your case to ensure that any unnecessary delays are avoided.

## Support

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People who are the subject of an allegation/concern are likely to find it stressful and should be offered support. Your Employer should:

- Advise you to seek support from your trade union.
- Signpost you to available well-being support services within your organisation.
- Provide a named support person who will keep you up to date with the progress of any investigations.
- Keep you up to date with any work matters if you are suspended from your post.

It is important that you consider accepting any support that is offered or available to you, you can also seek help from your GP if you feel the stressful nature of the situation is causing you health problems. Your employer may consider referring you to Occupational Health if this is an option in your place of work and it is considered appropriate.

## Concluding the Process

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Following the conclusion of the Position of Trust investigation an Outcome Professional Strategy Meeting will be held to determine, on the balance of probabilities, what the outcome of the allegation/concern is considered to be. The outcomes will be considered within the following four categories.

**Substantiated** – a substantiated allegation is one which is established by evidence or proof.

**Unsubstantiated** – an unsubstantiated allegation is not the same as an allegation that is later proved to be false. It simply means that there is insufficient identifiable evidence to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

**Unfounded** – this indicates that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively they may not have been aware of all the circumstances. For an allegation to be classified as unfounded, it will be necessary to have evidence to disprove the allegation.

Deliberately invented or malicious – this means there is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false.

The outcomes discussion would normally precede any decision by the employer to invoke disciplinary procedures. Where the concerns are substantiated, employing or volunteer agencies should consult if not already done so with the Disclosure and Barring Service and other relevant professional bodies about the requirement for a referral (see below).

The outcome of the Outcome Professional Strategy Meeting will be communicated to you in writing.

## Notifications

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Confidentiality will be respected and only the people that need to know are told about the allegation.

## Record keeping

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A comprehensive summary of the case will be kept on your confidential personnel file and retained until normal retirement age. This includes any allegations that were considered to be unsubstantiated. Other agencies if involved may keep their own records.

## Disclosure and Barring Service DBS

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The DBS holds a list of all those people who have been barred from working with children and adults, and information is disclosed when future employers check on any potential employees who wish to work with children, young people or adults at risk. This is an important mechanism in ensuring robust recruitment practices that keep children, young people or adults at risk safe.

Your employer or agency has a statutory duty under Safeguarding Vulnerable groups Act 2006 to report you to the DBS if:-

- You are dismissed for misconduct arising from an allegation or because you are considered unsuitable to work with children, young people or adults at risk.
- You resign before a disciplinary process is completed and your employer believes that you would have been dismissed.

If you are referred to the DBS, you will be sent a letter explaining the process, including your right to make representations.

## Registered Bodies

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If you are registered with a Professional Body or organisation, for example Social Care Wales, The Nursing and Midwifery Council, General Medical Council, information may be sent to them to advise them of the investigation and the outcome, they may also wish to undertake an investigation and also may consider suspending your registration until the investigation is completed. If Social Care Wales are involved you will be informed by letter and advised on how they will proceed with their investigation. Police Officers will automatically be referred to the Police Forces Professional Standards Department.

## For More Information:

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- Section 5 of the Wales Safeguarding Procedures contains the procedure and can be accessed online at <https://safeguarding.wales/en/>.
- Contact your employer for any relevant internal Policies.