



Sussex and East Surrey Commissioners



Sussex and East Surrey Sustainability and Transformation
Partnership (STP)

Managing Safeguarding Allegations against Staff Policy

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**Compliance with all CCG policies is a condition of employment.
Breach of policy may result in disciplinary action.**

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1. INTRODUCTION

This policy provides a framework to ensure appropriate actions are taken to manage allegations about CCG staff, whether in connection to duties undertaken for CCGs within the East Surrey and Sussex STP, in their private life or in any other capacity. This policy applies to all staff working or volunteering for the CCGs

Examples include:

- Commitment of a criminal offence against, or related to an adult child or young person.
- Failing to work collaboratively with social care agencies when issues about care of adults, children or young people for whom they have caring responsibilities are being investigated.
- Behaving towards adults, children or young people in a manner that indicates they are unsuitable to work in a position of trust.
- Where there is a safeguarding enquiry or allegation involving the member of staff as a potential cause of risk.
- Where an allegation or concern arises about a member of staff, arising from their private life such as perpetration of domestic violence and abuse (DVA).
- Where inadequate steps have been taken to protect individuals from the impact of violence or abuse.

This policy and procedure is consistent with the [Sussex Safeguarding Adults Policy and Procedures](#) and the [Sussex Children Policy and Procedures](#)

Statutory guidance in Section 11 of the Children's act (1989, 2004) clearly stipulates that organisations including the NHS must have clear policies in place for dealing with allegations against people who work with children. This is reflected in Working Together to Safeguard Children (HM Government: 2018: Chapter 2 paragraph 4).

The Care Act was updated in April 2016, to include a section on allegations against people in positions of trust (14.120-14.132) for adults at risk of harm or abuse, which states that this policy must be in place, and distinguish between allegations and concerns regarding quality of care or practice or complaints.

This policy must be read in conjunction with the relevant CCG disciplinary policy; this policy does NOT replace the usual disciplinary procedures within the organisation

It should be noted that the terminology used in guidance differs between children and adults. With children 'investigation' is used, for adults the Care Act (2014) refers to an 'enquiry'. For the purposes of this document we are using 'investigation'.

2. SCOPE

This document applies to the CCGs across the STP who are committed to safeguarding and promoting the welfare of adults. Compliance with these procedures will ensure that allegations of abuse against children, young people and adults are dealt with expeditiously and are consistent with a thorough and fair process

3. DEFINITIONS

Allegations: Where there is a concern that any person employed or commissioned by the STP CCGs who works with children, young people or adults, in connection with their employment, voluntary activity or personal life has:

- Behaved in a way that has harmed or may have harmed a child, young person or adult.
- Possibly committed a criminal offence against or related to a child, young person or adult.
- Behaved towards a child, young person or adult in a way which indicates that they may pose a risk of harm to children, young people and adults. (see inappropriate/abusive behaviours below)

Investigation: All allegations against staff will be investigated. Staff should be mindful that where allegations have been made, there may be occasions when it may feel the balance is towards the child, young person or adult rather than the member of staff about whom the allegations are being made, this is to uphold the principles of safeguarding.

Inappropriate/ abusive behaviours: Examples of behaviours should be considered within the context of the categories of abuse and include concerns relating to inappropriate relationships between adults and children, young people and adults.

There are four identified categories for children and young people;

- Physical
- Sexual
- Emotional abuse
- Neglect

There are ten identified categories of abuse for adults;

- Physical
- Sexual
- Psychological
- Financial or material abuse
- Neglect and acts of omission
- Self-Neglect
- Organisational
- Domestic abuse
- Modern slavery which includes human trafficking
- Discriminatory

Parallel Processes:

- A Police investigation may run concurrently

- Social care enquiries may be conducted to decide whether a child, young person or adult is in need of protection or services
- CCGs may consider disciplinary procedures
- It is important to recognise, with regard to safeguarding adults, that the CCG internal disciplinary processes and/or police investigation may be used in whole or part of the S.42 enquiry.

Members of staff: all references to members of staff should be interpreted as all staff whether they are in a paid or voluntary capacity, inclusive of temporary, seconded and contracted arrangements. Allegations relating to Primary Care professionals (doctors, dentists, optometrists etc) should also be escalated to NHSE.

Designated Senior Manager (DSM): The Designated Senior Manager for the STP is the Head of Safeguarding .

Support for the DSM will be provided by the Designated Professionals for Safeguarding in their role providing expert advice and strategic oversight as required. They will ensure that relevant procedures are in place and updated. Any action taken by staff to manage an allegation must not jeopardise any external investigations, such as a criminal investigation.

Local Authority Designated Officer (LADO): In relation to cases involving children and young people Local Authorities are required to have a LADO who will:

- Provide advice and guidance to employers, voluntary organisations and community groups;
- Liaise with the police and other agencies; and
- Monitor the progress of cases to ensure that they are dealt with as quickly as possible and are consistent with a fair and thorough process.

East Sussex has a LADO in post to deal with allegations where an adult is the believed victim or where the alleged perpetrator works with adult who may be at risk

Substantiated: A substantiated allegation is one which is supported or established by evidence or proof.

Unsubstantiated: An unsubstantiated allegation is not the same as a false allegation. 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 implies a deliberate act to deceive. A malicious allegation may be made by a pupil following an altercation with a teacher or a parent who is in dispute with a school. For an allegation to be classified as malicious, it will be necessary to have evidence, which proves this intention.

4. MANAGING ALLEGATIONS – IMMEDIATE ACTIONS

The safety of the child, young person or an adult at risk is of paramount importance. Immediate action may be required to safeguard children, young people and adults. Any concern that children, young people and adults may be at risk of harm or abuse, must be immediately reported in accordance with STP Safeguarding Policy. Reputational issues must be managed by the Designated Senior Manager in conjunction with HR and Communications manager as deemed necessary.

The person to whom an allegation or concern is first reported should treat the matter seriously and keep an open mind. An allegation against a member of staff may arise from a number of sources, e.g. a report from a child, young person or adult. A concern raised by another adult in the organisation, or a complaint by a parent or carer.

All staff must be familiar with referral procedures to protect a child young person or adult at risk; they should:

- Make a written record of the information (where possible in the child, young person or adults own words) including the time date, place of incident, persons present and what was said;
- Sign and date the written record; and
- Immediately report the matter to the Designated Senior Manager and the Designated professionals. The designated professional must escalate to the Designated Senior Manager. Where the DSM is the subject of the allegation, this should go via the Designated Professionals in the first instance and vice versa.

The staff member should not:

- Investigate or ask leading questions if seeking clarification;
- Make assumptions or offer alternative explanations; or
- Promise confidentiality, but give assurance that the information will only be shared on a 'need to know' basis.

Immediate actions by Designated Nurse:

When informed of a concern or allegation, the designated nurse should not investigate the matter or interview the member of staff, child young person or adult concerned and potential witnesses. He/she should:

- Obtain written details of the concern/allegation, signed and dated by the person receiving (not the child/young person or adult making the allegation);
- Countersign and date the written details;
- Record any information about times, dates locations of incident(s) and names of witnesses; and
- Record discussions about the child young person or adult and /or member of staff, any decisions made, and the rationale for those decisions.
- In discussion with Head of Safeguarding (DSM) consideration should be given to the procedure for notification of a serious incident.
- Advise the person concerned that an allegation has been made against them.

- Concerns to be escalated by DSM or designated nurse via appropriate governance structures

5. MANAGING AN ALLEGATION IN RELATION TO CHILDREN/ YOUNG PEOPLE:

If the allegation meets the criteria set out in section 1 the Designated Nurse must report it to the LADO within one working day of receipt of the information. Failure to report allegations or concerns in accordance with procedures is a serious matter, and will be addressed via the appropriate CCG.

If an allegation requires immediate attention, but is received outside normal working hours, the designated nurse should consult the Social Care emergency duty team and/or local police and inform the LADO as soon as possible. Referrals to children's social care should be made in accordance with Sussex procedures and should be followed up within 24 hours in writing.

Initial consideration by the Designated Nurse and the LADO (for cases involving children/young people)

The LADO can be contacted via Children's Social Care, immediate issues of investigation and management of the employee should be discussed and agreed at this time, including what information should be passed to the member of staff concerned at this point. The LADO and the Designated Nurse should also consider whether there is evidence or information that establishes that the allegation is false or unfounded. Care should be taken to ensure that there is no confusion in the account from the child or young person regarding times, dates locations and the identity of the member of staff.

If the allegation is not demonstrably false and there is cause to suspect that a child or young person is suffering or likely to suffer significant harm, the LADO should refer to Children's Services and ask them to convene an immediate strategy discussion.

The strategy discussion should:

- Decide whether there should be a Section 47 enquiry and or Police investigation and consider the implications.
- Consider whether any parallel disciplinary/standards of care process can take place and agree protocols for sharing information.
- Consider the current allegation in the context of previous allegations or concerns.
- Where appropriate, take account of entitlement by staff to employ reasonable force for control or restraint of children e.g. Section 550a Education Act 1996 in respect of teachers and authorised staff.
- Plan enquiries if needed, allocate tasks and set time scales.
- Decide what information can be shared, with whom and when.
- Ensure that arrangements are made to protect the child/ young person and any other children affected, including taking emergency action where needed
- Consider what support should be provided to all children who may be affected

- Consider what support should be provided to the member of staff and others who may be affected
- Ensure that investigations are sufficiently independent
- Make recommendations where appropriate regarding suspension or alternatives to suspension.
- Identify a lead contact within each agency
- Agree protocols for reviewing investigations and monitoring progress by the LADO
- Consider issues for the attention of senior management such as potential media interest and resource implications
- Agree dates for future meetings

All participants should be aware that the Strategy meeting is a confidential meeting and the notes of the meeting should not be shared without the consent of the Chair. The meeting will involve the Designated Nurse the LADO, a human resources representative and other professionals involved in the case.

The Police must be consulted about any case in which the criminal offence may have been committed. If the threshold for significant harm is not met, but a Police investigation might be required the LADO should immediately inform the police and convene an initial evaluation to include the Police, employer and other agencies involved with the child.

6. MANAGING AN ALLEGATION IN RELATION TO ADULTS

Employers who are providers and/or commissioners of care and support have both a duty to the adult and a responsibility to take action in relation to an employee when allegations of abuse are made against them. The internal HR and disciplinary procedures must also be followed with regard to due process.

There may be instances identified where a person's conduct towards an adult may impact on their suitability to work with children; these situations must be escalated and referred to the LADO in areas where the LADO also covers Adults (currently this is only East Sussex) as soon as possible. as per LADO guidance

Where the Local Authority receives information or concerns that may impact on suitability to work with children, young people or adults, they must give careful consideration to what information is shared with the employer to enable accurate risk assessments to take place.

Allegations against people who work with adults must not be dealt with in isolation. Actions must be taken to address the safety and welfare of the adults with care and support needs without delay, and in a coordinated manner. The designated nurse must discuss the case with the relevant Adult Social Care manager, and where appropriate, the police. The social care manager will make a decision with regard to if a Section 42 enquiry needs to be undertaken, and will lead the Safeguarding process. This does not mean internal processes cease, the two will run in parallel.

The DSM may also convene an internal strategy meeting to decide how to manage the allegation; this should include relevant professionals such as a senior representative from human resources. The Designated Nurses: Safeguarding Adults/Children will support the Designated Senior Manager in fulfilling their responsibilities.

The individual against whom allegations have been made must be kept informed and updated by the DSM and be made aware of timescales and process for the investigation, as well as what support and advice will be available to them. This may be through HR as appropriate.

7. THE DESIGNATED SENIOR MANAGER MUST:

- Consider any immediate or future risk to the adult/adults
- Consider the views of the adult at risk, what they want to happen and if they have given their consent for referral to social care
- Consider what support should be provided to the member of staff and others who may be affected
- Ensure that the information is shared with the line manager/head of service
- Make recommendations where appropriate regarding suspension or alternatives to suspension.
- Agree dates for any internal planning meetings
- Liaison with HR and Line manager within the CCG to ensure that referral to Disclosure and Barring Service (DBS) and regulatory bodies such as CQC, NMC and GMC are made promptly where appropriate.
- Human resources to be consulted in order that appropriate support from HR and Occupational Health may be provided as soon as possible after the allegation has been made
- The person subject to the allegation should be advised to contact his/her union or professional association if they are a member
- The line manager should be asked to provide appropriate support to the individual while the case is on-going and keep them regularly informed
- In line with Disciplinary policy the person should be clear on who will update them on the progress of the enquiry
- Appropriate recording systems to be in place to provide a clear audit trail for decision making, recommendations and processes relating to managing safeguarding adult allegations. Information to be controlled in accordance with information governance principles

8. ORGANISED AND HISTORICAL ABUSE

Investigators should be alert to signs of organised or widespread abuse and/or the involvement of other perpetrators or institutions. They should consider whether the matter should be dealt with in accordance with complex abuse procedures which, if applicable, will take priority.

Historical allegations should be responded to in the same way as contemporary concerns. It will be important to ascertain if the person is currently working with children or adults at risk and if that is the case, to consider whether the current employer should be informed and a strategy discussion held.

The information should be recorded and given as a written record to the employer and the LADO.

Where a decision is made that criminal proceedings cannot be pursued, it should then be decided whether further investigation be undertaken, which may clarify whether the allegation is substantiated on a balance of probabilities i.e. using the burden of proof used in civil cases (as opposed to the criminal burden of proof, which is 'beyond all reasonable doubt'.

9. SUPPORT

9.1 For the Child, Young Person or Adult

The CCG together with Social Care and/or police, where they are involved, should consider the impact on the child, young person or adult concerned and provide support as appropriate. Liaison between agencies should take place in order to ensure that the child's/ young person's, adult's needs are addressed. It should be clear who will keep them informed of the progress of the allegation or complaint.

9.2 For the Person Subject To the Allegation or Concern

9.2.1 As soon as possible after an allegation has been received, the person subject to the allegation or concern should be advised to contact his/her union or professional association if they are a member.

9.2.2 Human Resources should be consulted at the earliest opportunity in order that appropriate support can be provided by the HR department and via Occupational Health.

9.2.3 The line manager and/or head of service need to be informed, in order to offer support and guidance to the person.

9.2.4 As per the Disciplinary and Dismissal policy the person should be clear on who will update them on the progress of the investigation.

10. MANAGING INTERIM RISK

10.1 In all situations the perceived level of risk during any investigation needs to be considered and managed.

10.2 In certain situations the level of risk may require the member of staff not to work with specific children, young people or adults until the investigation is completed.

10.2.1 If this is the case then various options are open to the employer including:

- Redeployment so not to come into contact with children, young people or adults.

- Refraining (agreeing that the person will not work with children, young people or adults during the investigation); or
- Suspension (as per the relevant CCG Disciplinary and Dismissal Policy).

10.2.2 Refraining or suspension are considered neutral acts and should not be automatic. They should be considered in any case where:

- There is cause to suspect a child, young person or adult is at risk of significant harm;
- The allegation warrants investigation by the police; or
- The allegation is so serious that it might be grounds for dismissal.

10.3 The possible risks to children, young people and adults should be evaluated and managed in respect of the other children, young people and adults in the accused member of staff's home, work or community life. This will be led by the DSM

11. RESIGNATIONS AND 'COMPROMISE AGREEMENTS'

11.1 Every effort should be made to reach a conclusion in all cases even if:

- The individual refuses to cooperate, having been given a full opportunity to answer the allegation and make representations.
- It may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete. However in every situation the outcome of the disciplinary process should be recorded.

In both these circumstances consideration should be given to making referrals to the barring list and regulator/registration bodies.

11.2 'Compromise agreements' **must not** be used, e.g. where a member of staff agrees to resign provided that disciplinary action is not taken and that a future reference is agreed.

12. DISCIPLINARY PROCEDURE AND INVESTIGATIONS

12.1. The Designated Senior Manager should consider whether disciplinary action is appropriate in all cases where:

- It is clear at the outset or decided by a strategy discussion that a police investigation or social care enquiry is not necessary, or
- The employer or Local Authority Designated Officer (LADO) is informed by the police or the crown prosecution service that a criminal investigation and any subsequent trial is complete, or that an investigation is to be closed without charge, or a prosecution discontinued.

12.2 With regard to allegations regarding adults, disciplinary action needs to be considered, even in cases where a social care enquiry is also progressing. The CCG internal processes may form the mechanism for the S.42 safeguarding enquiry, to avoid duplicate processes. This will be agreed between the DSM and lead enquiry officer within social care. The CCG must ensure that their disciplinary procedures are compatible with the responsibility to protect adults at risk of abuse or neglect.

12.3 In the case of supply, contract and volunteer workers, normal disciplinary procedures may not apply. In these circumstances, the Local Authority leading the

investigation and the DSM should act jointly with the providing agency, if any, in deciding whether to continue to use the person's services, or provide future work with children, young people or adults and if not, whether to make a report for consideration of barring or other action.

12.4 If further investigation is needed to decide upon disciplinary action, the employer should discuss with the local authority whether the CCG have appropriate resources or whether there is a need to commission an independent investigation because of the nature and/or complexity of the case and in order to ensure objectivity. The independent investigation and report should be completed within 10 working days. On receipt of the report, the employer should decide within 2 working days whether a disciplinary hearing is needed. If a hearing is required, it should be held within 15 working days.

12.5 At any stage, new information emerges that requires a child young person or adult require a safeguarding referral to social care, the investigation should be held in abeyance and only resumed if agreed with social care and police colleagues. Consideration should again be given as to whether suspension or refrainment is appropriate in light of any new information.

13. CONSIDERATIONS POST INVESTIGATION

13.1 If a refrained/suspended person is to continue to work with children, young people and adults after the investigation into the process has been completed, the CCG should consider what help and support might be appropriate, e.g. a phased return to work and/or provision of a mentor, and also how best to manage the member of staff's contact with the child, young person or adult concerned, if still in the workplace.

14. REFERRAL TO DISCLOSURE AND BARRING SERVICE (PREVIOUSLY THE INDEPENDENT SAFEGUARDING AUTHORITY) OR REGULATORY BODY

14.1 If the allegation is substantiated and the person is dismissed or the CCG ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the Designated Senior Manager should discuss with HR whether a referral should be made to the Disclosure and Barring Service and/or a regulatory body, e.g. the Nursing and Midwifery Council (NMC) or General Medical Council (GMC). Details of this discussion, including outcome and rationale must be recorded.

14.2 Consideration must be given as to whether the individual should be barred from, or have conditions imposed in respect of, working with children, young people or adults.

14.3 If the CCG removes an individual from work with adults with care and support needs (who would have, had the person not left first) because the person poses a risk of harm to adults, a referral to DBS must be made.

14.4 If a referral is to be made, it should be submitted within 1 month of any of the situations outlined in section 11.1.

14.5 It is a criminal offence to fail to make a referral without good reason.

15. FALSE ALLEGATIONS

15.1 If an allegation is demonstrably false, the DSM should refer the matter to social care to determine whether the child, young person or adult is in need of services, and/or further support.

15.2 If it is established that an allegation has been deliberately invented, the police should be asked to consider what action may be appropriate.

16. GENERAL PRINCIPLES

16.1 Whistle Blowing

16.1.1 All staff should be made aware of the relevant CCG's Whistle Blowing Policy¹ and the Dignity at work Policy² and feel confident to voice concerns about the attitude or actions of colleagues.

16.1.2 If a member of staff believes that a reported allegation or concern is not being dealt with appropriately by the CCG, s/he should report the matter to the Local Authority Designated Officer. (for safeguarding children) or a senior manager (for safeguarding adults).

16.2 Sharing Information for Disciplinary Purposes

16.2.1 Wherever possible the police and social care should, during the course of their investigations and enquiries, obtain consent to provide the CCG and/ regulatory body with statements and evidence for disciplinary purposes.

16.2.2 If the police or CPS decides not to charge, or decide to administer a caution, or the person is acquitted, the police should pass all relevant information to the CCG without delay.

16.2.3 If the person is convicted, the police should inform the CCG straight away so that appropriate action can be taken.

17. CONFIDENTIALITY

17.1 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, young person their parents and/ or adult plus the accused person up to date with progress of the case, information should be restricted to those who have a need to know in order to protect children, facilitate enquiries, manage related disciplinary or suitability processes.

17.2 The Police should not provide identifying information to the press or media, unless and until a person is charged, except in exceptional circumstances, e.g. an appeal to trace a suspect. In such cases, the reasons should be documented and partner agencies consulted beforehand.

18. RECORD KEEPING

18.1 The CCG should keep a clear and comprehensive summary of the case record and give a copy to the member of staff.

18.2 The record should include details of how the allegation was followed up and resolved, the decisions reached and the action taken.

18.3. A copy of this summary should be:

- Placed on the person's confidential personnel file
- Given to the individual, and
- Given to the Local Authority Designated Officer (LADO) where children are involved (adults also in East Sussex)

18.4 This summary should be retained on the staff members personnel file at least until the person reaches normal retirement age or for 10 years if longer.

19. LEARNING LESSONS

19.1 The CCG should review the circumstances of the case to determine whether there are any improvements to be made to CCG procedures or practice. This process should be led by the DSM.

19.2 Where appropriate, this should include agreement to an action plan for future practice based on lessons learnt.

20. ALLEGATIONS AGAINST STAFF IN THEIR PERSONAL LIVES

20.1 If an allegation or concern arises about a member of staff, outside of his/her work with children, young people or adults and this may present a risk to children, young people or adults for whom the member of staff is responsible, the general principles outlined in these procedures will still apply.

20.2 The strategy discussion should decide whether the concern justifies:

- Approaching the CCG as the member of staff's employer, for further information, in order to assess the level of risk; and
- Inviting the CCG Designated Senior Manager to a further strategy discussion about dealing with the possible risk; or
- Who will make contact with the CCG and who, if it is agreed will inform the member of staff of this course of action.

20.3 If the member of staff lives in a different authority area to that which covers his/her workplace, liaison should take place between the relevant agencies in both areas and a joint strategy discussion convened.

21. EQUALITY STATEMENT

In applying this policy, the CCG will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics

protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.

22. REFERENCES

- Care Act 2014
www.legislation.gov.uk/ukpga/2014/23/contents/enacted
www.gov.uk/government/publications/care-act-2014-part-1-factsheets
- Disclosure and Barring Service
www.gov.uk/government/organisations/disclosure-and-barring-service
- East Sussex Safeguarding Adults Board.
new.eastsussex.gov.uk/socialcare/worried/sab/
- General Medical Council.
www.gmc-uk.org/
- Jimmy Savile NHS investigations by Kate Lampard: lessons learned.
www.gov.uk/government/publications/jimmy-savile-nhs-investigations-lessons-learned
- Nursing and Midwifery Council.
www.nmc.org.uk/
- Sussex Safeguarding Adults Policy and Procedures.
sussexsafeguardingadults.procedures.org.uk/
- HM Government (2015) *Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children*. London, the Stationery Office
- Sussex Child Protection and Safeguarding Procedures (*Procedures for managing allegations against people who work with children*)
<https://sussexchildprotection.procedures.org.uk/>
- NHS England (2015) *Safeguarding Vulnerable People in the NHS*
- *Accountability and Assurance Framework*. NHS England
- HM Government (2016) *Care and support statutory guidance*.
- Children's Act (1989, 2004)
- The Children and Social Work Act (2017)

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