

There are five potential outcomes from an allegation against an accused person, these are:

1. **Substantiated:** there is sufficient identifiable evidence to prove the allegation;
2. **False:** there is sufficient evidence to disprove the allegation;
3. **Malicious:** there is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false;
4. **Unfounded:** there is no evidence or proper basis which supports the allegation being made. It might also indicate 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;
5. **Unsubstantiated:** this is not the same as a false allegation. It means that there is insufficient evidence to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

Unfounded or Malicious Allegations

If an allegation is determined to be unfounded or malicious, plans can be made by an employer for a suspended employee to return to work.

Substantiated Allegations

If the allegation is substantiated, then remedial and/or disciplinary actions will be considered.

If it is decided that disciplinary action should be taken against the accused, in discussion with the LADO, the employer will consider:

- Whether the accused can return to work, and if so, how to facilitate this
- Whether the accused should be dismissed and making a referral to the Disclosure and Barring Service (DBS).
- Referring the matter to the relevant regulator or professional body (ie: Health and Care Professions Council, OFSTED, General Medical Council, etc.)

Records

Whether founded or not, a summary of the allegation should be kept on the personnel file until the normal retirement age or 10 years after the allegation, if longer. The LADO and Police will also keep secure records of their enquiries.

Alleged Criminal Offences

If the Police decide to investigate, the accused may be arrested or invited to assist with the investigation. At the Police station, the accused will be entitled to free legal advice from a duty Solicitor. A Union or Solicitor can provide further advice on these proceedings.

The police refer decisions about making charges to the Crown Prosecution Service (CPS) who act independently of the police. If the CPS advises to do so, the police will charge the accused and then the accused will either be released on bail to appear in court at a future date or kept in custody to appear at the next available court.

If the accused admits to the offence, the CPS may advise a caution, which is a formal warning about actions. A caution may influence a decision about instituting criminal proceedings should the accused offend again. A caution could affect a person's ability to work with children in the future, and in sexual abuse cases could result in being placed on the Sex Offenders Register.

No Conviction, But Still Disciplined

Although Police and Social Care work closely in conducting enquiries, they have different roles, thresholds for action, and outcomes. Social Care assesses and decides whether it is more likely than not that a child has suffered or is at risk of suffering significant harm as a result of a person's actions or negligence. The CPS must be satisfied that there is enough evidence to obtain a realistic prospect of criminal conviction and that it is in the public interest to take the case to court. A judge must then be satisfied beyond reasonable doubt that a person has committed an alleged offence to convict them.

Therefore, it is still possible to be deemed a risk to work with children without a criminal conviction.



local safeguarding children board
Keeping children safe is everyone's responsibility

A GUIDE FOR PROFESSIONALS AND VOLUNTEERS FACING AN ALLEGATION OF ABUSE

Any allegation of abuse is likely to cause a great deal of anxiety and concern. This guide provides information on the process following an allegation of abuse of a child or young person.

For further information and details on this procedure, please visit: www.brentlscb.org.uk

When an Allegation is Made

The employer's Designated Senior Manager (DSM) should immediately consult the Local Authority Designated Officer (LADO) if it is alleged that a volunteer or member of staff has:

- Behaved in a way that has harmed a child, or may have harmed a child; or
- Possibly committed a criminal offence against or related to a child; or
- Behaved in a way that indicates s/he is unsuitable to work with children

Police or Social Care will agree on which information can be disclosed and at what point to the accused person. However, the accused person should be told that an allegation has been made as soon as possible by their employer. If it is clear to the DSM and LADO, that the allegation is demonstrably false, the accused person can be informed that the allegation is without foundation and that no further action will be taken.

What Happens Next?

If there is cause to suspect a child is suffering or likely to suffer significant harm, or a criminal offence may have been committed, a strategy discussion will be held, involving Police, LADO, employer, and other agencies as appropriate. The accused will not be invited. Agencies involved in the meeting will share relevant information and determine whether one or more of the following types of investigation need to be conducted:

- Social Care enquiries, under child protection procedures
- A Police investigation relating to possible criminal offences
- An investigation by the employer under disciplinary or suitability procedures

The discussion will take account of the fact that staff, in certain circumstances, are entitled to use reasonable force to control or restrain children.

Supply, Contract, and Volunteer Workers

In the case of supply, contract, and volunteer workers, normal disciplinary procedures may not apply. These agencies still need to be involved and co-operate in any investigation and consider whether to continue to use the person's services, provide them to work with children, and to make a report to a professional body or the Disclosure and Barring Service (DBS).

Resignations and Compromise Agreements

Allegations will continue to be investigated even if the accused resigns, ceases to provide their services, or refuses to co-operate. "Compromise agreements" (i.e. resignations without disciplinary action and an agreed reference) cannot be used by the employer.

Timescales

Cases are dealt with as quickly as possible, but need to ensure a fair and thorough investigation. The LADO will monitor the progress in order to avoid unnecessary delay. Brent's Local Safeguarding Children's Board (LSCB) sets target timescales, but the time taken to resolve individual cases depends on factors, such as:

- the nature, seriousness and complexity of the allegation
- the outcome of Police and/or Social Care enquiries

Suspension

Suspension is a neutral act, not a sanction. It should not be automatic and alternatives should be considered wherever possible. The employer should seek advice from the HR provider, and the LADO should canvass the views of Police and Social Care, if involved. The final decision for suspension lies with the employer and will be considered in all cases when:

- There is cause to suspect a child is at risk of significant harm, or
- The allegation warrants a police investigation
- It is so serious that it might be grounds for dismissal

When suspension is being considered, an interview will be arranged by your employer. You have the right to be accompanied to the interview by a Union representative or a friend. The meeting is not an examination of the evidence but an opportunity for you to make representations concerning possible suspension.

Notifications and Confidentiality

Confidentiality should be respected and people are only told about allegations on a 'need to know' basis. Those informed may include:

- The child concerned, his/her "parents" and any party making an allegation
- Senior members of the employer, supplying, contract, or volunteer agency
- Human Resource representative
- The LADO
- Manager of the supplying agency
- The Police and Social Care
- Other representatives as deemed relevant

Unless a person is charged, the Police do not normally provide identifying information to the press or media. However, they may do so in exceptional circumstances (ie: an appeal to trace a suspect.) This is decided following consultation with appropriate individuals.

Support

The accused should be:

- Advised to contact a Union representative.
- Kept up-to-date with the progress of the investigation through a contact person through their employer
- Given the name of a contact to keep up to date with work activities if suspended. Social contact with work colleagues should not be precluded unless it might be detrimental to the investigation
- Advised not to discuss the matter with colleagues
- Referred to staff counselling, Occupational Health, or GP support