

Managing Safeguarding Allegations against Staff Policy & Procedure 2019

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| Version: | V2.2 | |
| Summary: | The purpose of this policy is to provide a framework for managing cases where allegations are made that indicates a Locala individual has behaved in a way that has, or may have, harmed a child, young person or an adult at risk in any activity connected with her/his employment, personal life or voluntary activity. | |
| Ratified by | Policy Ratification Group | Date: September 2019 |
| Has an Equality Impact Assessment been carried out? | Yes | Date: August 2019 |
| Name of originator/author: | Head of Safeguarding | |
| Executive Director | Director of Nursing, Allied Health Professionals and Quality | |
| Name of responsible committee / group: | Safeguarding Committee | |
| Target audience: | All colleagues, partners and local communities | |
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| Next Review date: | September 2022 | |

Review and Amendment Log

| Version No | Type of Change | Date | Description of Change |
|------------|-----------------------|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| V2.0 | Full review of Policy | 17.09.19 | Minor amendments only |
| V2.1 | Minor amendments | 09.03.20 | Section 2; Links to HR Disciplinary Policy. Section 7 Paragraph 3; More explicit instruction Appendix B; Minor amendments to flowchart to make links with HR procedures. |
| V2.2 | Minor amendments | 05.08.21 | Scope – to include volunteers Definition of LADO added Changed title to Chief Nurse in appendices flowcharts. |

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1 Introduction

All individuals working within Locala Community Partnerships CIC (hereinafter known as Locala) whether they are employed directly or indirectly, are expected to live by the Locala values and aspire to the highest standards of excellence and professionalism. High standards of personal conduct should be adopted in order to maintain the confidence of children, young people and adults at risk in their ability to safeguard their welfare, as well as their peers and the public in general.

All allegations of abuse or maltreatment of a child, young person or an adult at risk by any individual working within Locala will be taken seriously and treated in accordance with the procedures set out in this document. The nature of these allegations may indicate that the individual is unsuitable to work with service users in their present position or any capacity. Individuals who are the subject of criminal or legal proceedings outside of Locala, must inform their manager in line with Workforce policy and procedures. An assessment of the risks will then be carried out in order to identify the continued suitability of their current role.

2 Purpose

The purpose of this policy is to provide a framework for managing cases where allegations are made that indicates a Locala individual has behaved in a way that has, or may have, harmed a child, young person or an adult at risk in any activity connected with her/his employment, personal life or voluntary activity. This procedure should be implemented in conjunction with the Locala Disciplinary Policy where it is appropriate to do so.

Managing allegations against staff is required under the Children Act (1989/2004) and the Care Act (2014). Working Together to Safeguard Children (2018) sets out expectations that all organisations must have clear policies for dealing with allegations against people who work with children.

Examples include:

- Commitment of a criminal offence against or related to children, young people or adults at risk.
- Failing to work collaboratively with social care agencies when issues about care of children, young people or adult at risk for whom they have caring responsibilities are being investigated.
- Behaving towards children, young people or adults at risk in a manner that indicates they are unsuitable to work with this client group.
- Where an allegation or concern is raised about a Locala colleague, arising from their private life such as behaviours to his/her own children; or behaviour to others which may impact upon the safety of children/adults at risk to whom they owe a duty of care.
- Where an allegation or concern is raised in relation to perpetration of domestic violence, or where inadequate steps have been taken to protect vulnerable individuals from the impact of violence or abuse.

- Where an allegation of abuse is made against someone closely associated with a colleague such as a partner, member of the family or other household member.
- Inappropriate use of social media including inappropriate imagery.

3 Target Population

These procedures are intended for all Locala colleagues, including those on temporary contracts as well as bank colleagues, students and volunteers who work directly or indirectly with children between the ages of 0-18 years or with adults.

4 Explanation of Terms

Adult at Risk means an adult at risk of abuse or neglect. This is usually an adult who has care and support needs, and who is unable to protect themselves from abuse or neglect because of their care and support needs. In a small number of cases, it may include an adult with support needs, such as an unpaid carer of someone with care and support needs.

Child: A child is defined as a young person who has not reached their 18th birthday or 19 if the child has a diagnosed disability which may be either physical or learning. (Children Act, 1989)

Harm: means ill-treatment or the impairment of health or development, including impairment suffered from seeing or hearing the ill-treatment of another.

LADO or Designated Officer (DO) Local Authority Designated Officer is a local authority role responsible for managing and overseeing concerns, allegations or offences relating to staff and volunteers in any organisation across a local authority area. It pertains only to children.

Further definitions of harm and abuse can be found in the [West Yorkshire Consortium Procedures Manual](#) and [Joint Multi-Agency Safeguarding Adults Policy and Procedures](#).

5 Duties

5.1 Individual colleague's responsibility

Individuals are responsible for following the procedures described in this policy whenever they become aware that a colleague has behaved in a way that indicates a child, young person or an adult at risk is believed to have suffered, or may have suffered, harm.

5.2 Manager's responsibility

It is the responsibility of all line managers to ensure that they and the people they manage are conversant with this policy and its contents.

5.3 Responsible committee

It is the responsibility of the Clinical Policy Overview Group to monitor this policy and the Policy Ratification Group to ratify all corporate and clinical procedures.

5.4 Chief Executive

The Chief Executive is ultimately accountable of the implementation of these organisation-wide processes.

6 Managing Allegations – Immediate Actions

There are five strands in consideration of an allegation:

Enquiries and assessment by Children/Adult Social Care about whether a child/adult at risk of harm or abuse, is in need of protection or in need of services.

A police investigation of a possible criminal offence.

Consideration of disciplinary action (including suspension).

Completion of an incident form on Datix – Any incident which occurred whilst providing a service by Locala which caused harm to a patient or could have caused potential harm should be reported.

Notification to the CQC is required if a patient is being abused, is the abuser or both. This includes abuse perpetrated by a Locala colleague. (Please note incidents/allegations reported via NRLS do not need to be reported separately with the exception of GP practices).

The person to whom the allegation is first reported to must treat the matter seriously and act promptly. The safety of the child or an adult at risk is of paramount importance. Immediate action may be required to safeguard investigations and any other children or adults at risk. Any concern that children or adults may be at risk of harm or abuse must immediately be reported.

If there is an immediate risk to a child or adult the police should be contacted via 999.

Locala's reputation must be managed appropriately by discussion with a senior member of the communications team.

All those working within Locala must be familiar with referral procedures to protect an adult/child at risk. The concern must also be reported to the individual's concerned line manager, who must take advice from a safeguarding team. **(Appendix A provides a summary of the process to be followed.)**

Each Local Safeguarding Children Partnership (LSCP) and Local Safeguarding Adults Board (LSAB) in the local authority areas where Locala provides services, have their own websites which set out their policies and procedures for safeguarding children/young people/ adults at risk of harm or abuse. (Direct links to LSCP/LSAB are available on safeguarding homepage on intranet ELSIE).

Each Local Authority has a Designated Officer (DO) or a team of officers (formally known as LADO - Local Authority Designated Officer), who will be involved in the management and oversight of allegations against people who

work with children and ensure that arrangements are put in place without delay; this role plays a critical part in terms of working in partnership with Locala to manage risk. The DO should be informed of allegations, according to local safeguarding procedures.

A Serious Incident report of the allegation against a healthcare or non-healthcare professional should be reported on the Strategic Executive Information System (STEIS). Available at:

<http://www.england.nhs.uk/ourwork/patientsafety/serious-incident/>

Any action taken by Locala to manage an allegation must not jeopardise any external investigations, such as a criminal investigation.

7 Procedure for Reporting/Managing Allegations for Individuals Directly Employed by Locala

The process outlined will ensure appropriate, pragmatic and proportionate responses are made in partnership with other agencies, taking into account the risk, history and context of each situation.

It is essential that every effort must be made to maintain confidentiality and manage communications while an allegation is being investigated.

On all occasions the Chief Nurse, Director of Clinical Quality and Professional Practice (or another Director in the absence of the Chief Nurse) should be informed immediately of the allegation.

A meeting must be held where the Chief Nurse, Director of Clinical Quality and Professional Practice will appoint a Designated Senior Manager (DSM) from the relevant business unit who will:

- Ensure (if appropriate) that a child protection/adults at risk referral is made (or has been made) to the relevant Children/Adult Social Care Team, and where appropriate the Police, using the required reporting form as detailed in the relevant LSCP/LSAB policies and procedures and Locala's Safeguarding Children and Child Protection and Safeguarding Adults Policy policies and procedures. The referral must be put in writing to Children Social Care, by the individual reporting the concerns within 24 hours or in the event of a weekend the earliest opportunity or the next working day. For Adult Social Care the referral should be made via a phone call and documented in the adult at risk health record.
- Where the issue is in relation to safeguarding children, the DSM will liaise with the appropriate Designated Officer (DO) and agree any information that needs to be shared with other local authority geographical areas, depending on where the individual, against who the allegation has been made, lives. Immediate issues of investigation and management of the allegation should be discussed and agreed at this time, including what information should be passed to the individual concerned at this point.
- Where the issue is in relation to an adult at risk of harm or abuse, the DSM will discuss the case and allegations with the police and the relevant adult

social care department manager and identify which agency will be leading on the investigation.

- For individuals directly employed by Locala the DSM should contact Workforce for advice regarding the action to be taken in relation to the employee, and in conjunction, with the employee's line manager, decide whether suspension is appropriate during the period of investigation. Workforce will advise on the authority levels and process requirements for this action and whether Locala's disciplinary procedure is to be followed. Workforce advice will be pertinent to individuals who are agency, secondees, or self-employed colleagues working on behalf of Locala.
- Following referral to Children/adult Social Care and/or the Police if deemed necessary, the DSM should undertake an internal Strategy/Planning Meeting (see below) with the appropriate personnel to decide how to manage the allegation. The DO should attend this meeting – if appropriate (check with relevant LSCP). This group should include the individual's line manager and a senior colleague from the relevant Business Unit; Head of Safeguarding and a senior member of Workforce team to offer specific HR (Human Resources) advice. Consideration should be given as to whether a communications manager or performance analyst should be present dependent on the nature of the allegation.

8 Strategy/Planning Meeting

At this meeting the following issues must be considered;

- Consider what further contact is required with local Police, children/adult Social Care.
- The DSM will coordinate or will nominate a link person to liaise with agencies above.
- Whether the child/adult at risk of harm or abuse is safe from any further risk of harm or abuse.
- Review what action has already been undertaken so far to ensure the safety of the victim.
- Decide the nature of the internal investigation to be undertaken. The Police and/or children/adult Social Care should be consulted when they are involved in any on-going investigation and/or criminal proceedings are pending.
- A referral to the appropriate professional regulatory body should the individual concerned be a registered professional e.g. General Medical Council (GMC) for doctors, the Nursing and Midwifery Council (NMC) for nurses or Health and Care Professions Council (HCPC) for allied health professionals.

- Decide how to present the allegations to the individual concerned and how to manage the investigatory process. Locala performance procedures should be followed.
- Agreement must be reached with children/adult Social Care and the Police about what information should be passed to the individual concerned.
- The Line Manager will be asked to provide appropriate support to the individual, and their team, while the case is on-going and keep them regularly informed.
- Further support may be considered necessary from Occupational Health.
- Decide how the child/adult at risk of harm or abuse, or their nominated parent/guardian/carer who made the allegation is to be kept informed of what is happening to their allegation, whilst adhering to the requirements of maintaining confidentiality and observing the requirements of the Human Rights Act and the Data Protection Act. The sharing of information must not 'contaminate' any NHS England, Police or children/adult Social Care investigations that are on-going.
- Locala Communications team will provide additional support and advice in relation to the handling of any queries from the media concerning the allegation.
- Ensure that the incident has been reported on the STEIS system
- The information to be shared with Locala senior management team.
- Decide the frequency and format of review meetings which need to be set up to manage the on-going investigation and the various actions required.

9 Procedure for Reporting/Managing Allegations for Individuals Not Directly Employed by Locala

When a safeguarding allegation is made against an individual working for Locala, who is not directly employed by Locala, the allegation must also be shared with their employer or the body that engaged them at the earliest opportunity, as detailed in the recent lessons learnt report into Savile by Kate Lampard QC (2015). The following are examples of some potential scenarios that might arise, but this is not exhaustive;

- Allegations against contracted staff e.g. Pharmacists must be managed according to the performer's list policies and procedures.
- Allegations made against agency workers must be reported to the appointing agency.
- Allegations made against workers employed by external contractors must be referred to the contractor and the relevant lead in Locala responsible for managing the service level agreement with the contractor.

- Allegations made against workers seconded in from another employer to Locala, must be reported to the relevant employer.
- Allegations made against volunteers undertaking duties for, or on behalf of Locala, must also be reported to the voluntary body the person is volunteering with.
- Allegations made against workers engaged under a contract for services should be referred to Locala procurement lead.

A DSM will be appointed for such allegations and undertake the duties set out in section 7. Appendix A Process flow chart must be followed for all cases.

The DSM will need to engage with the other relevant parties outlined as above to decide how the allegation will be managed. These scenarios are likely to be complex and the DSM will take early advice from the relevant LSCP/LSAB and Workforce. It is recommended that a meeting is held between Locala and the other party/parties at the earliest opportunity, noting the responsibility to report issues to the Police and/or Social Care teams within 24 hours of the allegation being received. Such parties should be asked to attend the strategy meeting.

For contracted staff such as GPs the local performance manager should be informed so that the case can be reviewed and investigated. Cases may need to be referred to the performance group for action and further referral to the General Medical Council (GMC) and NHS England.

Despite the fact that allegations against individuals must be reported as above, Locala still retains a responsibility to consider how the allegations will be managed if the allegation has a connection with, or relevance to, the duties that the individual undertakes with Locala. All such allegations also need to be reported and escalated by the DSM in accordance with the requirements of this policy.

Assumptions must not be made that any other involved party has referred the matter to the police or relevant other body – evidence needs to be promptly provided and if this is not forthcoming then the Locala DSM appointed to deal with the case will do so and advise the other party accordingly.

10 Disclosure and Barring Services (DBS)

As an employer of individuals in a 'regulated activity', Locala also has a responsibility to refer concerns to the DBS in accordance with the Safeguarding Vulnerable Groups Act 2006. Managers must report concerns directly to HR representative in Workforce and Head of Safeguarding. The following groups may be referred for information to the Disclosure and Barring Service:

- If an individual worker of Locala has been permanently removed from 'regulated activity' through dismissal or permanent transfer from 'regulated activity', or where they would have removed or transferred that person from regulated activity if they had not left, resigned, retired or been made redundant; and

- They believe the person has:
- engaged in 'relevant conduct'
- satisfied the 'harm test' (i.e. no action or inaction occurred but the present risk that it could occur was significant); or
- Received a caution or conviction for a 'relevant offence' (see DBS website www.gov.uk/disclosure-and-barring-service-criminal-record-checks-referrals-and-complaints).

A referral to the DBS will be made following initial information gathering to establish whether there is cause for concern. A referral will be made even if the person in question has left Locala before an investigation and/or disciplinary process has been completed. However, it is important to note that the DBS has no investigatory powers and therefore relies upon evidence supplied to it. Managers therefore have a responsibility to complete investigations as far as possible, even where the individual leaves before investigations can be completed, so that the DBS has enough substantiated evidence on which it can base its decision. If additional information becomes available after making a referral this will also be provided to the DBS. The referral should be made using the DBS referral form and posted to the DBS enclosing all relevant information held. Please see further guidance and information at:

<https://www.gov.uk/government/publications/dbs-referrals-form-and-guidance>

11 Record Keeping

In accordance with the Records Management Code of Practice for Health and Social Care (2016) a record of the complaints case file must be kept on record for 10 years from the date the incident file is closed.

The DSM has responsibility for ensuring the following records are kept:

- The nature of the allegation/concern.
- Who was spoken to as part of the process and what statements/notes were taken and when.
- Any records that were seen and reviewed.
- What actions were considered and justification for specific decisions, including suspension and any actions taken under Locala Disciplinary Procedures.
- What alternatives to actions were explored?
- Minutes and actions of all meetings that take place.
- The above information will be held on the individual's personal employment record until the individual reaches the age of 79 or 6 years after death, whichever is the longer period.

A checklist is provided in Appendix B.

All records will be saved in a designated digital secure area and not on personal drives as they may need to be accessed, the folder must be restricted to certain personnel on the shared drive.

For these particular records;

- Name the files appropriately.
- Apply a retention period.
- Save in an agreed area and apply security measures to the records as they contain personal information
- Remember that emails can form part of records or can be seen as individual records, so if they are also a critical part of the investigation, they should also be securely stored in the file accordingly.

12 Post Investigation Review

Following the completion of the initial investigation, the DSM will lead a review of the case and its actions.

Any recommendations from the review will be implemented and information disseminated to the appropriate people within Locala and local safeguarding forums.

As well as supporting the individual, throughout the investigation, consideration must be paid to supporting the individual and their team through integration back into the workplace should this be appropriate post investigation. On-going support for the individual and their team may be offered through Occupational Health.

13 Equality Impact Assessment

Locala Community Partnerships aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others. The Equality Impact Assessment Tool (Appendix D) provides evidence of analysis undertaken to establish whether its policies and practices would further, or had furthered, the aims set out in the section 149 (1) of the [Equality Act 2010].

14 Consultation Process

The Policy has been developed following consultation with all relevant stakeholders within and external to Locala, including colleagues in Operations, Workforce and Procurement.

15 Dissemination and Implementation

15.1 Dissemination

The policy will be publicised throughout all the business units and via Team Talk, Locala Live electronic newsletter and on Locala Safeguarding intranet site.

The ratified document will be placed in the relevant section of the Policies site on SharePoint. Any previous versions will be archived.

15.2 Competence including Training

Allegations against staff and role of Designated Officer is one of the core competences of safeguarding children learning requirements (Intercollegiate Document, RCHCP, 2018). Learning resources are available on the safeguarding homepage on the staff intranet.

16 Monitoring Compliance with the Document.

Locala will monitor compliance of this policy through the Safeguarding and Workforce Leads.

Locala Head of Safeguarding is responsible for the monitoring, revision and updating of this policy.

17 References / Bibliography

Lampard K and Marsden E (2015) Themes and lessons learned from NHS investigations into matters relating to Jimmy Saville. Independent report for the Secretary of State for Health via following [LINK](#)

18 Associated Policy Documentation

[DH Consent to Treatment](#)

Speaking Up: freedom to speak up, raising concerns and whistleblowing Policy (2018)

Mental Capacity Act 2005 and Deprivation of Liberty Safeguards Policy (LCP, 2016)

Health & Social Care Act (2008)

www.legislation.gov.uk/ukpga/2012/7/contents/enacted

CQC Regulation 20- Duty of Candour <https://www.cqc.org.uk/.../regulations-enforcement/regulation-20-duty-candour>

Safeguarding Children and Child Protection Policy

Records Management Code of Practice for health and Social Care (2016)
[Records management: code of practice for health and social care - GOV.UK](#)

Safeguarding Vulnerable Groups Act (2006) [Safeguarding Vulnerable Groups Act 2006](#)

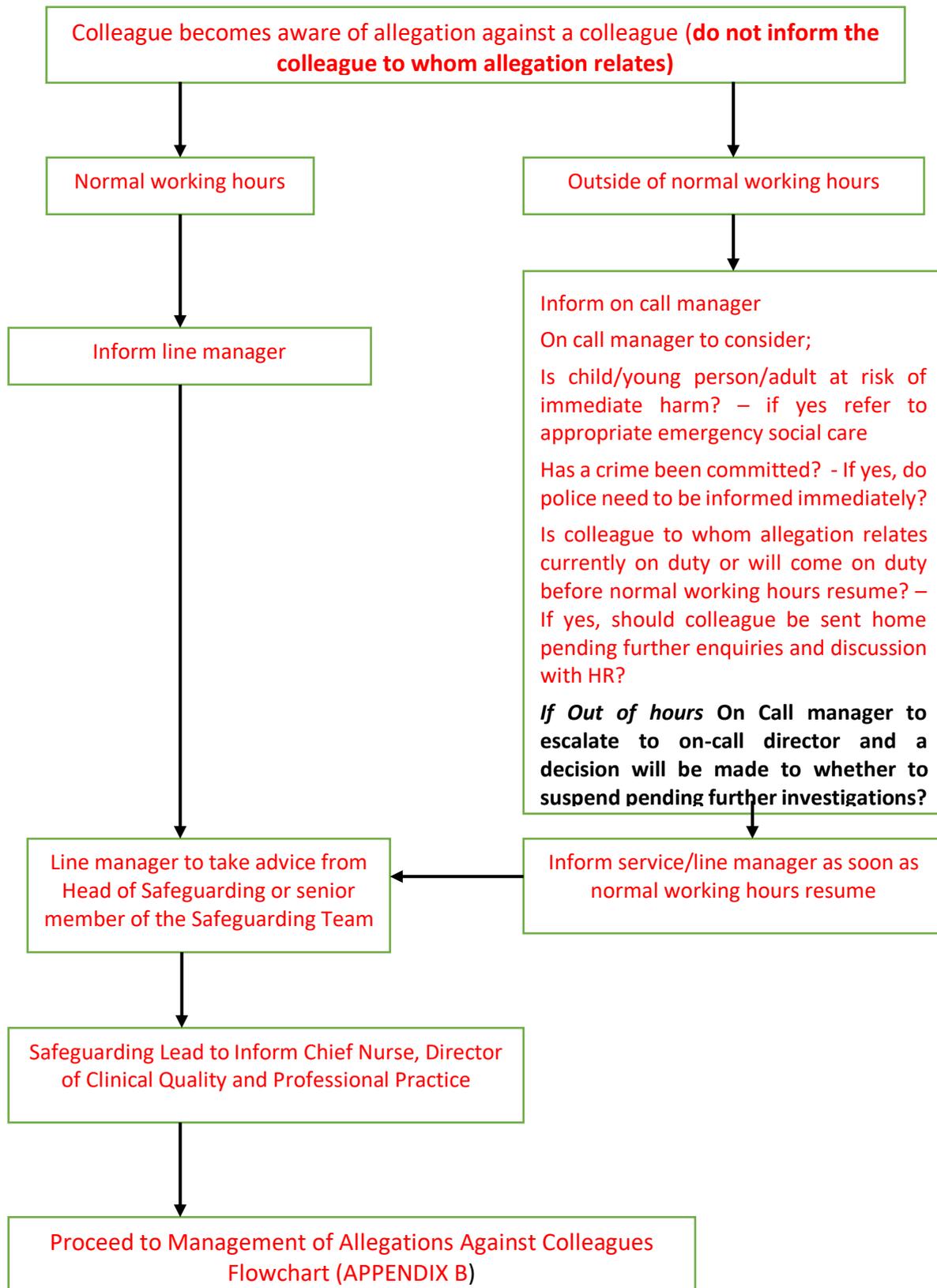
Working Together to Safeguard Children (2018) [Working together to safeguard children - GOV.UK](#)

Clinical Record Keeping Policy (LCP, 2018)

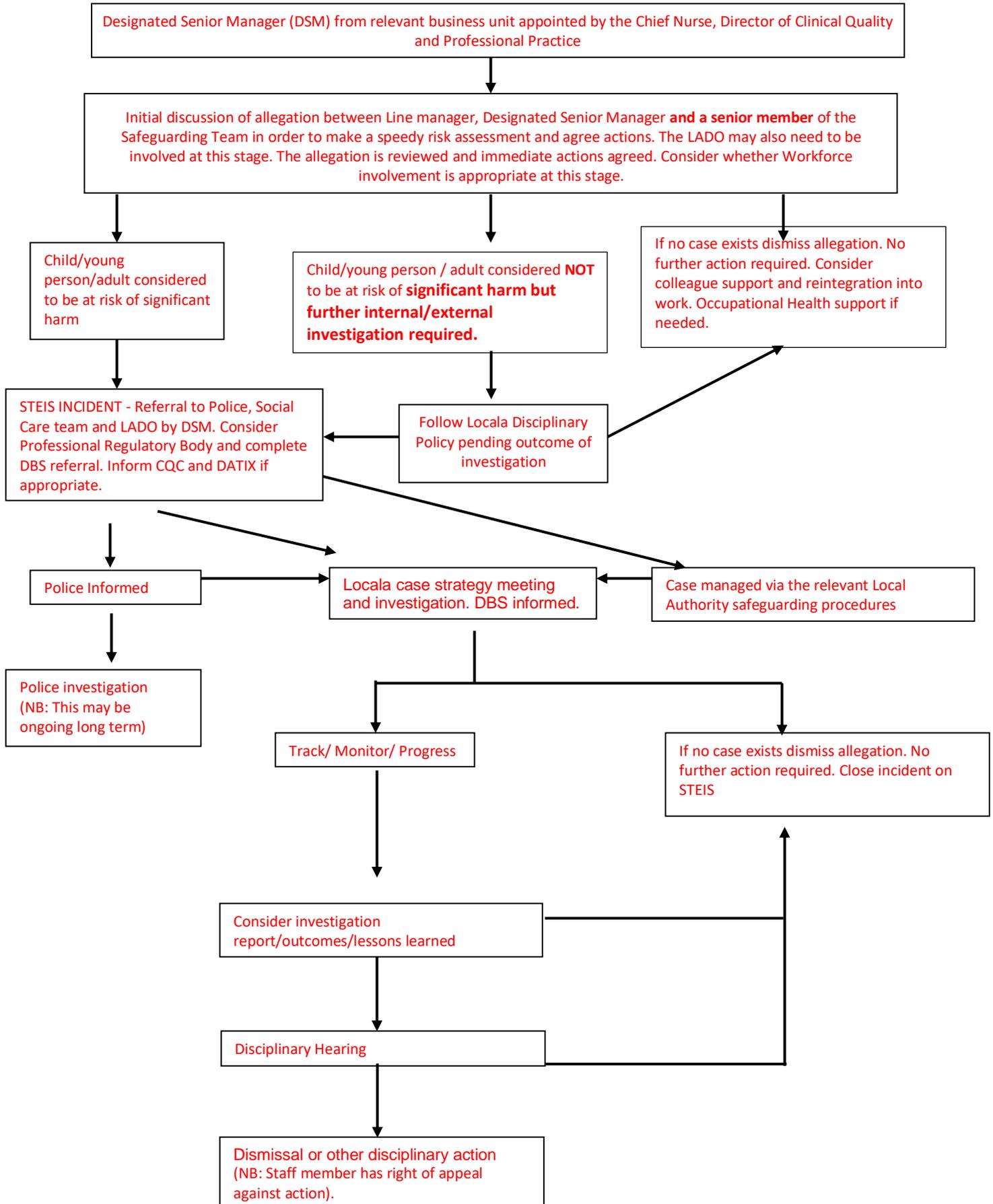
Mental Capacity Act 2005 and Deprivation of Liberty Safeguards Policy (LCP, 2015)

Safeguarding Adults at Risk Policy

Appendix A – Initial Response to Allegations Against Colleagues Flowchart



Appendix B – Management of Allegations Process Flowchart



Appendix C – Record Keeping Checklist

The DSM will have the responsibility for ensuring that records are kept throughout the investigation of the allegation/concern. This checklist reflects the information needed, but this is not exhaustive:-

- The nature of the allegation/concern.
- Who was spoken to and when as part of the process and what statements/notes were taken.
- What records were seen and reviewed.
- Why specific decisions/actions were taken, including suspension and any actions taken under the Locala Disciplinary Procedure.
- What alternatives to actions were explored?
- Minutes and actions of all meetings that take place
- The above information will be held until the employee reaches the age of 79 or 6 years after death, whichever is the longer period.

| Investigation | Key Contact | Evidence Collected |
|--------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|
| Clarify and articulate the nature of the allegation | STEIS completed <input type="checkbox"/> Datix if required <input type="checkbox"/> DO contacted <input type="checkbox"/> Police contacted <input type="checkbox"/> Social Care contacted <input type="checkbox"/> Human Resources contacted <input type="checkbox"/> Performance manager contacted <input type="checkbox"/> Lead Director contacted <input type="checkbox"/> | Date..... Name of contact..... |
| Statements and notes | | Date..... Identify where documents are stored |
| Actions taken <i>Record alternatives considered and why</i> | | Date..... Identify where documents are stored |
| Minutes and records of all relevant meetings | | Date..... Identify where documents are stored |

Appendix D - Equality Impact Assessment

| | | Yes/No | Comments |
|----|-------------------------------------------------------------------------------------------------------------------|--------|----------|
| 1. | Does the document/guidance affect one group less or more favourably than another on the basis of: | | |
| | • Race | No | |
| | • Ethnic origins (including gypsies and travellers) | No | |
| | • Nationality | No | |
| | • Gender (including gender reassignment) | No | |
| | • Culture | No | |
| | • Religion or belief | No | |
| | • Sexual orientation | No | |
| | • Age | No | |
| | • Disability - learning disabilities, physical disability, sensory impairment and mental health problems | No | |
| 2. | Is there any evidence that some groups are affected differently? | No | |
| 3. | If you have identified potential discrimination, are there any valid exceptions, legal and/or justifiable? | N/A | |
| 4. | Is the impact of the document/guidance likely to be negative? | No | |
| 5. | If so, can the impact be avoided? | N/A | |
| 6. | What alternative is there to achieving the document/guidance without the impact? | N/A | |
| 7. | Can we reduce the impact by taking different action? | N/A | |