

Flowchart to support decision making on 4th Allegation Criteria
Behaved in a way that indicates they are not suitable to work with children

Fourth Allegation Criteria

Flowchart explanation sheet

Introduction

In September 2020 the DfE introduced a fourth allegation criteria to Keeping Children Safe in Education. The new criteria states “behaved or may have behaved in a way that indicates they may not be suitable to work with children.”

While initially this was additional to the Working Together to Safeguard Children guidance, in January 2021 the new criteria was also applied to all areas of the children’s workforce.

If the events are from the private life of an individual the primary consideration is about the likelihood of transferable risk into the workplace.

Purpose of the flowchart

The language used in the new criteria is subjective and, without clear guidance, could result in behaviours being either over-reported or under-reported. This flowchart has been produced for the Safeguarding Children Partnerships of Hampshire, the Isle of Wight, Portsmouth and Southampton (HIPS) to support organisations and individuals determine if concerns about “unsuitable behaviour” require a LADO referral.

Throughout this guide, we will use the term ‘**child**’ to apply to anyone under 18. ‘**Person of Concern** or **POC**’ is the phrase used to identify the adult of concern. ‘**Employer**’ will be used to refer to the management of organisation the POC is working or volunteering for.

Working through the flowchart

Information is received

there are a number of ways in which allegations could come to your attention. Sometimes the information is sent directly to the LADO who makes contact with you as the ‘employer’. The other potential routes are through children, parents, colleagues, external organisations or members of the community making you aware of concerning behaviours.

Does the behaviour reach the allegations threshold under the other three criteria?

If the behaviour of concern is directed against or towards children then one of the first three allegation criteria may have been met. If so, refer to the LADO.

*Does it describe behaviour that may indicate the member of staff **is unsuitable to work with children**?*

The behaviours that have been reported to you may be very concerning or pose a risk to your organisation, however if there are no grounds for dismissal from employment, ending the worker’s

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engagement (casual or agency workers), or ending the volunteering position, then this would not reach the allegation criteria.

For example, there may be situations, such as fraud, that would lead to a dismissal, however this poses a risk to the organisation rather than to children, so would not reach the criteria

In these situations you will still need to investigate and ensure a proportionate response is put in place, procedures are followed and advice sought from your HR provider or relevant body. The matter would not require the oversight of the LADO.

If you are unsure, contact the LADO for advice.

Is it reasonable that the Person of Concern should know the behaviour was unacceptable?

This part looks at the need for some objective assessment.

The questions in this part of the flowchart are intended to give you some guidance about where expected behaviours, or the principles of suitable behaviour, are set out & communicated to staff.

The POC's profession or employment may be governed by a National Body, regulation, Codes of Conducts or standards e.g. Teacher Standards, sporting body. Don't forget to look at the expectations set out by these Bodies and/or your HR provider when considering if the POC should know the behaviour is unacceptable.

If the national standards do not reference the behaviours presented by the POC, but you still believe that the POC is unsuitable to work children, contact the LADO.

Over time, you may find the need to update or amend your policies and procedures in order to address gaps that have been highlighted by case work. As a point of reference, the guidance produced by the Safer Recruitment Consortium '*Safer Working Practice for Adults who Work with Children and Young People in Education Settings*' is helpful in setting out acceptable and unacceptable behaviour.

Does the behaviour identify a risk to children?

For the purposes of this guidance, direct risk refers to behaviours that occurred within the workplace. Does the presenting behaviour pose a risk to children in your setting?

Transferable risk refers to behaviour outside of the workplace. Is there a likelihood that the behaviours could be repeated in the workplace and might the behaviour present a risk of harm to children in your setting?

If there is potential risk of harm to children, then the matter will reach the threshold for LADO referral.

Is there a risk?

If behaviours are reported that are non-recent then consideration needs to be given to the proportionality of investigating or considering the suitability of the POC.

If you believe there might be a risk to children, you should consult with the LADO.

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- Does it fit within another allegation criteria?
- Does it describe behaviour that may indicate the member of staff shouldn't work with children? If no then deal with internally
- If unsure contact the LADO

Is it reasonable that the Person of concern should know the behaviour was unacceptable?

- Is the behaviour possibly criminal?
- Has childrens social care become involved?
- Is the behaviour outside of the expectations of the regulatory or governing body?
- Is the behaviour unacceptable in the employee handbook or code of conduct?
- Does the behaviour breach your trust and confidence in the individual ?
- If no to all of the above, deal with under internal procedures.
- If you are not sure then contact the LADO

Does the behaviour identify risk to children?

- Is there a potential risk to children?
- and/or is there a potential transferable risk to children?
- If the answer to either of the above is yes, then a referral to the LADO is required
- If you are not sure - or there is risk to another person - then contact the LADO

Is there a risk?

- Are the police actively investigating the matter?
- Are childrens social care involved at a safeguarding level?
- Is there reason to believe that there is still a risk posed?
- If yes to any of the above, the matter would require investigation and to be referred to the LADO