

## Allegations and Misconduct Policy

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### Introduction

Prospero Group follow strict standards to ensure that all Temporary Workers supplied to our Clients are of the highest professional and personal calibre. As part of our standards, we follow Safer Recruitment guidance before placing Temporary Workers into any workplace but especially those where Children and Adults at Risk may be present. We also take seriously any concerns raised regarding our Internal Employers and our Temporary Workers.

This policy gives details of what action Prospero Group will take when such concerns are raised with us and should be raised alongside our Safeguarding Children & Adults at Risk Policy, Complaints Policy, Safer Recruitment Policy and Whistleblowing Policy.

### Scope

This policy applies to anyone employed by Prospero Group including our Directors, Internal Employees, internal volunteers and Temporary Workers registered for Work-Finding Services.

The legislation and statutory guidance used to draft this policy covers England and where Temporary Workers/Internal Employees are located elsewhere in the UK, additional guidance may need to be considered. The main statutory guidance for organisations working in the education sector is Keeping Children Safe in Education 2021. For all other sectors, it is Working Together to Safeguard Children 2018.

Any Internal Employee/Temporary Worker who wishes to raise a concern regarding their conditions at work (or similar) should do so through the Company Grievance procedures.

Any Client, organisation or service wishing to complain about our services, or the suitability/capacity of any Temporary Worker placed with them should do so under in accordance with Prospero Group's Complaints Policy.

### Definitions

**Adult at Risk** – any person aged 18 years and over, who is or may be in need of community care services by reason of mental health issues, learning or physical disability, sensory impairment, age or illness and who is or may be unable to take care of him/herself or unable to protect him/herself against significant harm or serious exploitation.

**Child or Children** - any person under the age of 18.

**Client** – an organisation, which engages with Prospero Group to purchase Work-Finding Services. This includes, amongst others: Schools, Local Authorities, Care Homes, Universities, Parents/Carers and Private Sector organisations.

**Company** – is defined to mean Prospero Group.

**Internal Employee** – is defined to mean a full or part-time employee of Prospero Group.

**Prospero Group** – is comprised of three entities: Prospero Teaching, Prospero Health & Social and Prospero Integrated.

**Temporary Worker** – an individual receiving Work-Finding Services, delivered by Prospero Group. This includes, amongst others: Teachers, Tutors, Teaching Assistants, Care Assistants, Support Workers and Nurses.

**Work-Finding Services** – taken to mean recruitment activity, advertising of roles and provision of work-related training, provided by Prospero Group.

## Concerns that do not meet the allegations threshold: low-level concerns

Prospero Group recognises the importance of ensuring all concerns, including those, which do not meet the harms threshold (see below), are shared responsibly, with the right person and recorded and dealt with appropriately. This is to facilitate a culture of openness, trust and transparency where the clear values and expected behaviours set out in our Temporary Worker Code of Conduct are constantly lived, monitored and reinforced.

A low-level concern is any concern, no matter how small and even if no more than a ‘nagging doubt’, that an adult working in or on behalf of the school or college may have acted in a way that:

- Is inconsistent with the code of conduct, including inappropriate conduct outside of work and;
- Does not meet the allegations threshold or is otherwise not considered serious enough to consider a referral to the LADO.

## Responding to low-level concerns

Where a concern has been raised, Prospero Group’s trained Designated Safeguarding Lead/Officer will gain as much evidence as possible in order to help categorise the type of behaviour and determine what further action may need to be taken. This includes speaking:

- Directly to the person who raised the concern, unless it has been raised anonymously and;
- To the individual involved and any witnesses.

## Recording low-level concerns

All low-level concerns will be recorded in writing and include the following:

- Details of the concern.
- The context in which the concern arose.
- Any action taken and;
- The name of the individual sharing their concerns (unless the individual has asked to remain anonymous).

All records will be stored confidentially in accordance with Prospero Group’s Record Retention Policy and will be reviewed to identify patterns of concerning, problematic or inappropriate behaviour.

## Criteria for raising concerns that meet the harms threshold under this policy

A concern may be raised against an adult, which suggests that they may be a risk to a Child or Children. This is referred to as the ‘harms threshold’ and includes individuals who may have:

- Behaved in a way that has harmed a Child, or may have harmed a Child.
- Possibly committed a criminal offence against or related to a Child.
- Behaved towards a Child or Children in a way that indicates he or she may pose a risk of harm to Children or;
- Behaved or may have behaved in a way that indicates they may not be suitable to work with Children.

Where concerns are raised about an individual who works with Children, Prospero Group will assess any potential risk to other Children who may have contact with the individual, against whom the allegation has been made. This includes the individual's own Children and family members.

## **Who should take the lead in investigating allegations regarding a Temporary Worker when placement in an education setting?**

When deciding who should take the lead when a Temporary Worker is placed in a school, Prospero Group will have regard to Section 356, 357, 358 and 359 from Keeping Children Safe in Education 2021 (KCSIE 2021):

- *356. In some circumstances schools and colleges will have to consider an allegation against an individual not directly employed by them, where its disciplinary procedures do not fully apply because agencies will have their own policies and procedures; for example, supply teachers or contracted staff provided by an employment agency or business.*
- *357. Whilst schools and colleges are not the employer of supply teachers, they should ensure allegations are dealt with properly. In no circumstances should a school or college decide to cease to use a supply teacher due to safeguarding concerns, without finding out the facts and liaising with the local authority designated officer (LADO) to determine a suitable outcome. Governing bodies and proprietors should discuss with the agency whether it is appropriate to suspend the supply teacher, or redeploy them to another part of the school, whilst they carry out their investigation.*
- *358. Agencies should be fully involved and co-operate in any enquiries from the LADO, police and/or children's social services. The school or college will usually take the lead because agencies do not have direct access to children or other school staff, so they will not be able to collect the facts when an allegation is made, nor do they have all the relevant information required by the LADO as part of the referral process. Supply teachers, whilst not employed by the school or college, are under the supervision, direction and control of the governing body or proprietor when working in the school or college. They should be advised to contact their trade union representative if they have one, or a colleague for support. The allegations management meeting which is often arranged by the LADO should address issues such as information sharing, to ensure that any previous concerns or allegations known to the agency are taken into account by the school during the investigation.*
- *359. When using a supply agency, schools and colleges should inform the agency of its process for managing allegations but also take account of the agency's policies and their duty to refer to the DBS as personnel suppliers. This should include inviting the agency's human resource manager or equivalent to meetings and keeping them up to date with information about its policies.*

If an allegation is raised and a Client/educational establishment takes the lead in investigating the allegation, Prospero Group will endeavour to assist with that investigation, including attending meetings and sharing relevant information. Prospero Group do however reserve the right to conduct our own investigation where we are not satisfied with the outcome of the investigation; where we either believe that a Temporary Worker has been unfairly treated; that the guidance in KCSIE 2021 has not been followed; or where we continue to have concerns about the suitability of the Temporary Worker to work with Children/Adults at Risk.

Regardless of who takes the lead in the investigation, Prospero Group recognise the importance of providing relevant support to the Temporary Worker concerned, and of reviewing any systems or processes here at Prospero Group which may require improvement. The remainder of this policy concerns the process to be followed if Prospero Group is to take the lead in an investigation, for example if a concern is received from some place other than an educational establishment, is a historical allegation, where the Temporary Worker does not fall into the above provision in KCSIE 2021, or where the Temporary Worker is placed in a setting other than an educational one (e.g. a social work).

## **The procedure to be followed when an allegation is made**

There may be up to three strands in considering a concern or an allegation:

- A police investigation of a criminal offence.
- Enquiries and assessment by Children's Social Care to ascertain whether a Child or young person is in need of protection or is in need of services.

- Consideration by an employer of disciplinary action in respect of the individual.

## **Prospero Group responsibilities and Multi-Agency partnerships**

Prospero Group policies and processes ensure that all Internal Employees and Temporary Workers understand that it is their responsibility to protect Children and Adults at Risk. Prospero Group's Code of Conduct gives guidance on what behaviour is expected from Temporary Worker's when on placement in order to fulfil that responsibility.

All agencies have a joint responsibility to ensure that they work together to protect Children and Adults at Risk from harm. If Prospero Group gives a local authority information that suggests an individual may be a risk to Children or Adults at Risk, the local authority should give careful consideration as to what information should be shared with Prospero Group to enable a comprehensive risk assessment to be conducted.

Allegations against individuals who work with Children and Adults at Risk must not be dealt with in isolation. Any corresponding action necessary to address the welfare of other Children or Adults at Risk should be taken without delay and in a coordinated manner, to prevent the need for further safeguarding in future.

Any allegation which arises in relation to historical abuse by an Internal Employee/Temporary Worker, will be responded to in the same way as a current concern. In such cases, it is imperative to ascertain whether the individual concerned is still working with Children and/or Adults at Risk and if so, to inform their current employer/organisation.

The standard of proof for prosecution is 'beyond reasonable doubt'. The standard of proof for internal disciplinary procedures and for discretionary barring consideration by the Disclosure and Barring Service (DBS) is usually the civil standard of 'on the balance of probabilities'. This means that when criminal procedures are concluded without action being taken this does not automatically mean that regulatory or disciplinary procedures should cease, or not be considered. In any event, there is always a legal duty to make a safeguarding referral to DBS if an individual is dismissed or removed from their role due to harm to a Child or an Adult at Risk.

If an individual is removed from their role providing regulated activity following a safeguarding incident, Prospero Group have a legal duty to refer them to the DBS. This also applies where an individual leaves their role to avoid a disciplinary hearing following a safeguarding incident and Prospero Group believes they would have dismissed the person based on the information received.

The Local Safeguarding Partner arrangements/Local Safeguarding Adults Board procedures should specify the timescales, actions and procedures for responding to any allegations or concerns raised.

## **Actions required following an allegation against a Temporary Worker or Internal Employee**

Any allegation against an individual who works with Children or Adults at Risk should be reported immediately to Prospero Group's trained Designated Safeguarding Lead/Officer .

When an allegation has been made against an Internal Employee/Temporary Worker, Prospero Group's trained Designated Safeguarding Lead/Officer should not investigate the matter by interviewing the accused individual, the Child, Adult at Risk or potential witnesses, but should only gather sufficient information to establish whether there is enough credible information to proceed further (this is known as a 'fact find'). If they are unclear about this, they should consult with the LADO in the area in which the Organisation is located. They should also:

- Obtain written details of the allegation, signed and dated by the individual receiving the complaint, or allegation and any other relevant person at the point the allegation has been made.
- Countersign and date the written details.
- Record discussions about the Child/Adult at Risk and/or Internal Employee/Temporary Worker, any decisions made, and the reasons for those decisions.
- Decide whether any immediate action needs to be taken to safeguard any Child/Adult at Risk or whether an urgent referral needs to be made to either Social Care and/or the Police.
- The accused individual must not be informed of the allegations before consideration has been given to the implications this may have on any subsequent investigation.
- Consult the local procedures in the area in which the organisation is based and seek advice from the Local Authority Designated Officer (LADO). The LADO is responsible for dealing with allegations against individuals who work with Children. Prospero Group should make a clear distinction between an allegation, a concern about the quality of care or

a complaint when speaking to the LADO. Contact with the LADO should be made within one working day of the allegation being brought to the attention of the Prospero Group's trained Designated Safeguarding Lead/Officer.

- At an agreed appropriate time, Prospero Group's trained Designated Safeguarding Lead/Officer should also make the individual concerned aware of their rights under employment legislation and any internal processes.

Whilst any allegation is being investigated and until the outcome is decided, the individual against whom there is an allegation, should always be treated fairly and respectfully, helped to understand the concerns expressed and processes involved, and supported through the process.

It is the responsibility of the local authority to ensure that there are appropriate arrangements in place to effectively liaise with the police and other agencies, to monitor the progress of cases and ensure that they are dealt with as quickly as possible, consistent with a thorough and fair process.

## **Individuals to be first notified**

Any concerns should be shared with Prospero Group's trained Designated Safeguarding Lead/Officer. A plan of action should be agreed including of who needs to be notified and by whom and consider whether any action needs to be taken to preserve evidence or prevent further harm.

Prospero Group's trained Designated Safeguarding Lead/Officer must inform the LADO, for the relevant area in which the allegation is based. Where it is suspected that a criminal offence may have been committed, the Prospero Group's trained Designated Safeguarding Lead/Officer should also inform the police.

If the individual against whom the allegation has been made has contact with other Children or Adults at Risk (for example, in their own family), a referral should also be made to Social Care.

## **Enquiries**

Prospero Group's trained Designated Safeguarding Lead/Officer should refer to the Safeguarding Children Partnership or Local Safeguarding Adult Board procedures (for the relevant area in which the allegation is based) which should specify:

- Action to be taken pending the outcome of the police investigations.
- Action to be taken following a decision to prosecute an individual.
- Action to be taken following a decision not to prosecute.
- Action to be taken pending a trial.
- Responses to both acquittal and conviction.

Where the LADO, in conjunction with the police as appropriate, decides that the information gathered requires further discussion, the factors below should be considered. These may be considered as part of a strategy discussion/meeting, depending on the circumstances of the case and what decisions are made if any section 47 (child protection) enquiry is instigated.

The LADO Strategy Discussion should:

- Consider the three possible strands set out earlier in this policy.
- Review any previous concerns or allegations about conduct of the accused person.
- Decide whether there should be a Section 47 Enquiry and/or Police investigation and consider the implications.
- Consider whether any parallel disciplinary process should take place.
- Consider whether a complex abuse investigation is applicable.
- Scope and plan enquiries.
- Allocate tasks.
- Set timescales.
- Decide what information can be shared, with whom and when.

- Ensure that arrangements are made to protect the Child/Children involved and any other Child/Children affected, including taking emergency action where needed.
- Consider what support should be provided to all Children who may have been affected directly and indirectly.
- Consider what support should be provided to the individual against whom the complaint or allegation has been made and others who might have been affected.
- Ensure that investigations are sufficiently independent.
- Make arrangements to inform the Child's parents, and consider how to provide them with support and information during enquiries.
- Identify a lead contact manager within each agency.
- Agree protocols for reviewing investigations and monitoring progress by the LADO, noting the target timescales.
- Agree dates for future LADO Strategy Meetings.
- Consider obtaining consent from the individuals concerned by the Police and the Children's Services Trust to share the statements and evidence they obtain with Prospero Group and/or regulatory body for disciplinary purposes.

## **Possible risk to others**

The possible risk of harm to other Children and/or Adults at Risk should be assessed and managed, including Children/Adults at Risk who may be at risk in the accused's home, work or community life.

Where necessary, action should be taken, using the Safeguarding Children Partnership and Safeguarding Adults Board procedures as appropriate to protect Children and Adults at Risk from abuse or neglect.

## **Information sharing**

Unless it puts the Child/Adult at Risk in danger, risks harm to others, or raises the possibility of evidence being destroyed, the individual concerned should be informed that the information regarding the allegation against them will be shared, and with whom. Each case must be assessed individually as there may be rare cases where informing the individual about details of the allegations may increase the risks to the Child/Adult at Risk. Decisions on sharing information must be justifiable and proportionate, based on the potential or actual harm to children at risk and the rationale for decision making should always be recorded. This decision should always be made in consultation with the LADO.

The individual subject to the allegation should be offered a right to reply, and wherever possible given the opportunity to consent to the information being shared.

Prospero Group's trained Designated Safeguarding Lead/Officer should be advised as to what information (whether fully or partial) can be shared, and when, with the Child, Adult at Risk and family members (where applicable). The LADO and the police should discuss with Prospero Group's trained Designated Safeguarding Lead/Officer and decide what information they can share with the Internal Employee/Temporary Worker to whom the allegation relates, including being kept updated about any investigation which is undertaken, any disciplinary or related actions. Ofsted/CQC should be informed of any allegation or concern made against an individual who works with Children or Adults at Risk. They may also be invited to take part in a related strategy meeting/discussion.

When an allegation is made against an Internal Employee/Temporary Worker, it can be a challenging and emotive situation for all those involved, but also for colleagues and family of the accused individual. Every effort should be made to maintain confidentiality in relation to the Child, Adult at Risk, their family members and the Internal Employee/Temporary Worker. All Internal Employees and Temporary Workers should be reminded that the allegation must not be discussed outside of formal meetings with approved personnel, and no comment regarding it should be made on social media. It should be made clear that breach of this would result in disciplinary action being taken against the individual concerned.

## **Media strategy**

Until an individual is charged, the police should not normally provide the media with any identifying information, for example a public appeal to trace a suspect. In such cases, reasons for the publicity should be recorded with prior consultation of involved partner agencies.



Any media interest whilst an allegation is being investigated or considered should be handled very carefully, and a media strategy agreed by a multi-agency strategy meeting, including Prospero Group, where appropriate.

## Support for the Child/Adult at Risk and their family

The individual who is the main point of liaison with the Child, Adult at Risk and their family should keep them up to date, as far as possible, with the progress of the investigation whilst not breaching confidentiality in relation to the accused individual.

Other professionals providing care and support to the Child, Adult at Risk and their family should remain impartial throughout the process. Whilst they should provide support specific to their role, they should refrain from offering opinion on the case and in particular, not be seen to favour either side. This duty applies to all those involved, including the placement agency.

## Support for the accused individual

As soon as possible after an allegation has been received, the Internal Employee/Temporary Worker should be advised to contact their union or professional association if they have one. Prospero Group's trained Designated Safeguarding Lead/Officer should explore how they can be supported if an investigation takes place. This may be via a named individual in the organisation or via external agencies.

Following the outcome of the investigation, if the Internal Employee/Temporary Worker returns to work after a period of suspension, Prospero Group's trained Designated Safeguarding Lead/Officer should consider what help and support might be appropriate. This may include a phased return to work or deciding on what information to give to other professionals.

## Suspension

Suspension should not be automatic when an allegation is received. It should be considered when:

- There is concern that a Child/Adult at Risk is suffering or likely to suffer abuse or neglect.
- The allegation has resulted in an investigation by the police or;
- The allegation is so serious there may be grounds for dismissal.

Although those involved in the investigation can discuss views on suspension, only the Prospero Group's trained Designated Safeguarding Lead/Officer or Managing Director has the power to suspend an Internal Employee/Temporary Worker. The service cannot be required to suspend an employee by the local authority or the police. Suspension may be considered when there is no other way to prevent the individual concerned having contact with Children or Adults at Risk while the investigation is ongoing.

## Outcomes

Prospero Group will use the following definitions when determining the outcome of allegation investigations:

**Substantiated:** there is sufficient identifiable evidence to prove the allegation.

**False:** there is sufficient evidence to disprove the allegation.

**Malicious:** there is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false.

**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:** to reflect cases where there is no evidence or proper basis to support the allegation made.

If established that an allegation has been deliberately invented, Prospero Group will contact the police who will then consider if any action may be appropriate. Prospero Group will also consider whether there is any appropriate action they can take, including giving advice to other members of staff, risk assessments or changes to working practices.

## **Disciplinary process**

Prospero Group's trained Designated Safeguarding Lead/Officer will decide, in conjunction with the LADO, whether disciplinary action is required. The disciplinary procedures of the organisation will be followed in such circumstances. In the case of Temporary Workers, Prospero Group will decide whether it is appropriate to continue providing Work-Finding Services, and whether a referral to the DBS is warranted. Where required, Prospero Group will make a referral to other regulatory bodies.

Wherever possible and as necessary during the disciplinary process, consent will be obtained from the relevant individuals to share information with required organisations/bodies.

Where there are prosecutions, the police should inform Prospero Group's trained Designated Safeguarding Lead/Officer and the LADO of the outcome immediately, to enable them to act as required in relation to the individual's future employment and any required DBS referral.

## **Terminating employment/Work-Finding Services**

Wherever possible a conclusion to the investigation should be achieved, even if:

- The Internal Employee/Temporary Worker does not cooperate with the investigation.
- Disciplinary sanctions are not possible because the Internal Employee/Temporary Worker terminates their employment before the process has been completed.

In cases where Prospero Group has a duty to refer an Internal Employee/Temporary Worker to Disclosure and Barring Service as the criteria for referral are met, agreements that enable the Internal Employee/Temporary Worker to resign with no disciplinary action and provision of future references should not be made.

Where Prospero Group's trained Designated Safeguarding Lead/Officer dismisses an individual from work with Children/Adults at Risk (or would have, had the individual not left first) because they pose a risk of harm, a referral will be made to the DBS. Prospero Group recognise it is an offence to fail to make a referral without good reason. Where in doubt, Prospero Group will seek advice from the DBS.

## **Record keeping**

Prospero Group's trained Designated Safeguarding Lead/Officer will keep a clear and comprehensive record of the allegation, decisions reached, and actions taken on the individual's file, a copy of which should be given to them.

The record will include details of how the allegation was followed up and resolved, the decisions reached, and the action taken. All information in accordance with Prospero Group's Record Retention Policy.

The record will provide accurate information for any future reference and provide clarification if a future DBS disclosure reveals an allegation that did not result in a prosecution or a conviction. It will prevent unnecessary re-investigation if the allegation should resurface.

Details of allegations that are found to be malicious should be removed from records.

Prospero Group will take great care to ensure records keep respect the confidentiality of the alleged victim and/or the accused individual.

## **References**

Cases in which an allegation was proven to be false, unsubstantiated or malicious will not be included in any third party references.

A history of repeated concerns or allegations which have been found to be false, unfounded, unsubstantiated or malicious, will not be included in any reference.



## **Unsubstantiated or false allegations**

Where it is decided there is not enough evidence to substantiate an allegation, the individual undertaking the investigation should inform Prospero Group's trained Designated Safeguarding Lead/Officer in writing.

If established that an allegation has been deliberately invented, Prospero Group will inform the police who should then consider if any action may be appropriate.

## **Referral to the Disclosure and Barring Service**

Where allegations are substantiated, and in observance with our legal responsibilities, Prospero Group will report the individual to the Disclosure and Barring Service (DBS) where appropriate, and seek advice where we are uncertain.

## **Learning lessons**

At the conclusion of an investigation, Prospero Group, the LADO, and any other relevant parties, should undertake a review of the case.

This will ascertain whether there are any necessary actions required to improve procedures or practice, in relation to the circumstances which led to the allegation.

The process of investigating the allegation will also be evaluated, to decide if there are also recommendations for improvements.

Where changes to policy are recommended, these will be implemented as soon as possible and communicated to all Internal Employees.

Prospero Group will give consideration as to how lessons learned can best be communicated to Internal Employees – whether this be by internal communication, supervision, internal meetings or training events.