

Managing Safeguarding Allegations Against Staff Policy and Procedure



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Description	This policy applies to all NHS England staff, and anyone working on behalf of or undertaking work or volunteering for NHS England, including those staff registered as Performers on the National Performers List, i.e. GPs, Dental Practitioners, Pharmacists, and Optometrists. It provides a framework to ensure appropriate actions are taken to manage such allegations, regardless of whether they are made in connection with an employee's/worker's duties with NHS England or if they fall outside of this i.e. in their private life or any other capacity.
Cross Reference	This Policy should be read alongside NHS England Recruitment Guidance, Safeguarding Policy, Safeguarding Alerts Policy, Voicing Your concerns (Whistleblowing) Policy, Disciplinary Policy
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Document Status

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1 Introduction

- 1.1 This policy applies to all NHS England staff, and anyone working on behalf of or undertaking work or volunteering for NHS England, including those staff registered as Performers on the National Performers List; GPs, Dental Practitioners, Pharmacists, and Optometrists. It provides a framework to ensure appropriate actions are taken to manage allegations, regardless of whether they are made in connection to duties with NHS England or if they fall outside of this such as in their private life or any other capacity.
- 1.2 The purpose of this Policy is to provide a framework for managing cases where allegations are made about NHS staff that indicate that children, young people or adults at risk are believed to have suffered, or are likely to suffer, significant harm. Concern may also be raised if the staff member is behaving in a way which demonstrates unsuitability for working with children, young people or adults at risk, in their present position, or in any capacity. The allegation or issue may arise either in the employee's/professionals work or private life. 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 adults 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 children, young people or adults at risk of harm or abuse.
 - Where an allegation or concern arises about a member of staff, arising from their private life such as 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 member of staff such as a partner, member of the family or other household member.
- 1.3 This policy is focused on management of risk, based on assessment of harm and abuse.

Definitions of harm can be found in the Safeguarding Children and Young People, Adults at Risk Policy as detailed in the Children Act 1989 / 2004, 'No Secrets' (2000), and the Care Act (2014).

There are four categories of Child abuse

- Neglect.
- Sexual.
- Emotional.
- Physical.

There are eight categories of abuse for adults:

- Physical Abuse.
- Sexual Abuse.
- Psychological / Emotional Abuse.
- Financial.
- Neglect and Acts of omission.
- Self-Neglect.
- Discrimination.
- Institutional.

- 1.4 This policy should be read alongside the relevant NHS England policies relating to safeguarding of individuals (add in web link). Policies for the identification, management and support of Primary Care Practitioners; and contractors who's performance gives cause for concern must also be consider. <http://www.england.nhs.uk/joint/>

2 NHS England Commitments and Values

- 2.1 The NHS Constitution establishes the principles and values of the NHS in England and rights that patients, public and staff are entitled to. It sets out the pledges that the NHS is committed to achieve, together with responsibilities, that the public, patients and staff owe to one another to ensure that the NHS operates fairly and effectively.
- 2.2 As a publicly funded NHS body, NHS England expects high standards from all of its employees and, in line with the key principles of the constitution, NHS England aspires to the highest standards of excellence and professionalism in the people it employs, the education, training and development they receive and in the leadership and management of the organisation.

3 Application and Scope

- 3.1 This policy applies to all employees and contractors of NHS England, including secondees into and out of the organisation, volunteers, students, honorary appointees, trainees, contractors, and temporary workers, including locum doctors and those working on a bank or agency contract. Performers registered on the National Performers List are also included. This list is not exhaustive, but encompasses all that work for and on behalf of NHS England
- 3.2 For ease of reference, all employees and workers who fall under these groups will be uniformly referred to as “staff” in this document.
- 3.3 The policy covers allegations made against staff in the course of their NHS England duties and outside of this, including their private life and family home.
- 3.4 Although managing safeguarding allegations against staff is required under the Children Act (1989 /2004), this policy also applies to vulnerable adults at risk of harm or abuse as per the Care Act (2014). Working Together to Safeguard Children and Young People (2015) sets out expectations that all statutory organisations will have a procedure for managing allegations against staff.

4 Managing Allegations – immediate actions

- 4.1 There are three strands in consideration of an allegation:
- Enquiries and assessment by children/adult Social Care, about whether a child/young person/ 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).
- 4.2 The safety of the child, young person or an adult at risk is of paramount importance. Immediate action may be required to safeguard investigations and any other children, young people or adults at risk. Any concern that children, young people or adults may be at risk of harm or abuse, must immediately be reported. Reputational issues must be managed appropriately by discussion with the relevant communications team,
- 4.3 All staff must be familiar with referral procedures to protect an adult/child at risk. The concern must also be reported to the staff member’s line manager, who should take advice from the regional or central safeguarding lead. (Appendix 1 provides a summary of the process to be followed.)

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Each NHS England region and the central support team will have a nominated safeguarding senior officer of significant seniority to make decisions on behalf of NHS England. Where there is no-one appointed to this role, the Regional Chief Nurse will act as the point of contact to identify and appoint the nominated Safeguarding Senior Officer to lead and co-ordinate investigations. The regions will need to understand their local multi-agency policies and procedures, in conjunction with the NHS England Accountability and Assurance Framework.

- 4.4 Each LSCB and SAB have their own websites which set out their policies and procedures for safeguarding children/young people/ adults at risk of harm or abuse. Each Local Authority has a Local Authority Designated Officer (LADO) to act on their behalf in investigating allegations; this role plays a critical part in terms of working in partnership with the NHS to manage risk and was cited at the critical relationship in the Savile investigations. The LADO should be informed of allegations, according to local safeguarding procedures.
- 4.5 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.nrls.npsa.nhs.uk/resources/?entryid45=75173>
- 4.6 Any action taken by NHS England to manage an allegation must not jeopardise any external investigations, such as a criminal investigation.

5 Procedure for Reporting and Managing Allegations; NHS England staff

- 5.1 It is essential that every effort must be made to maintain confidentiality and manage communications while an allegation is being investigated.
- 5.2 There will then be a Nominated Safeguarding Senior Officer (NSSO) appointed who should:
 - 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 local policies and procedures of the area in which the person is situated. The referral must be put in writing to Children/Adult Social Care by the individual reporting the concerns within 24 hours or in the event of a weekend the earliest opportunity of the next working day

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- Where the issue is in relation to safeguarding children, the nominated safeguarding senior officer will liaise with the Local Authority Designated Officer (LADO), who will agree with the Nominated Safeguarding Senior Officer (NSSO) any information that needs to be shared with other geographical areas depending on where the staff member lives. The LADO can be contacted through the local Social Care team or the LSCB contact lead. 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 staff member concerned at this point.
- Where the issue is in relation to an adult at risk of harm or abuse, the NSSO 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 NHS England directly employed staff the NSSO should contact the HR department for advice regarding the action to be taken in relation to the employee. In conjunction with HR and the staff member's line manager, decide whether suspension is appropriate during the period of investigation. HR will advise on the authority levels and process requirements for this action. HR will advise whether the NHS England disciplinary procedure is to be followed, or, in the case of a Performer subjected to the performers list regulations, which procedure will be observed. HR advice will be pertinent to staff who are agency, secondees, or self-employed staff working on behalf of NHS England.
- Following notification to the children/adult Social Care and/or the Police if deemed necessary, the NSSO should undertake an internal (Strategy) Planning Meeting (see below) with the appropriate personnel will meet to decide how to manage the allegation. The LADO should attend this meeting. This group should include the Line Manager and a senior member of staff from that Directorate or region; Nominated Safeguarding Senior Officer; Safeguarding Lead; and a senior member of staff from the relevant regional or national support centre HR team to offer specific HR advice. Designated professionals may also be invited, as a safeguarding expert.
- Report the allegation for information to the Director of the relevant, region or central safeguarding team.

5.3 (Strategy) Planning Meeting.

At this meeting the following issues should be considered;

- Consider what further contact is required with regional staff, local Police, children/, and adult Social Care. A member of the Investigation Team should be nominated as the link person.
- Whether the child/young person/ adult at risk of harm or abuse is safe from any further risk of harm or abuse.

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- Review what action has already been undertaken so far to ensure the safety of the victim.
- Decide the internal investigation strategy to be undertaken. The Police and/or 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 member of staff be a registered professional such as the General Medical Council (GMC) for doctors, or the Nursing and Midwifery Council (NMC) for nurses.
- Decide how to present the allegations to the relevant staff member concerned and how to manage the investigatory process. NHS England performance procedures should be followed.
- Agreement should be reached with children/adult Social Care and the Police about what information should be passed to the staff member concerned.
- The Line Manager should be asked to provide appropriate support to the individual while the case is on-going and keep them regularly informed.
- Further support may be considered necessary from Occupational Health.
- Decide how the person/child/ adult at risk of harm or abuse, or their nominated parent/guardian/nominated carer making 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.
- NHS England Communications team should provide additional support and advice in relation to the handling of any queries from the media concerning the allegation.
- To ensure that the incident has been reported on the STEIS system
- The information to be shared with the 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.

6 Procedure for Reporting/Managing Allegations; Non-Directly employed staff

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

- Allegations against contracted staff including GPs, Optometrists, Dentists and Pharmacists should be managed according to the performers list policies and procedures.
- Allegations made against agency workers must be reported to the appointing agency and referred to NHS England Procurement.
- Allegations made against workers employed by external contractors should be referred to the contractor and the relevant lead body in NHS England responsible for managing the service level agreement with the contractor.

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- Allegations made against workers seconded in from another employer to NHS England, or embedded with NHS England but employed elsewhere, should be reported to the relevant employer.
- Allegations made against volunteers undertaking duties for or on behalf of NHS England 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 NHS England Procurement.

6.2 A NSSO should be appointed for such allegations and undertake the duties set out in section 5.3 and 5.4 above. Appendix 1 Process flow chart should be followed for all cases.

The NSSO will need to engage with the other relevant parties outlined above to decide how the allegation should be managed. These scenarios are likely to be complex and the NSSO should take early advice from their local safeguarding and HR leads. It is recommended that a meeting is held between NHS England 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.

6.3 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 GMC.

6.4 Despite the fact that allegations against such workers should be reported as above, NHS England still retains a responsibility to consider how the allegations should be managed if the allegation has a connection with, or relevance to, the duties that the worker undertakes with NHS England. All such allegations also need to be reported and escalated by the lead NHS England manager in accordance with the requirements of this policy.

6.5 Assumptions should not be made that the other 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 NHS England Nominated Safeguarding Senior Officer appointed to deal with the case should do so on behalf of NHS England and advise the other party accordingly.

7 Disclosure and Barring Service (DBS)

7.1 As an employer of staff in a 'regulated activity' NHS England also has a responsibility to refer concerns to the DBS in accordance with the Safeguarding Vulnerable Groups Act 2006. Managers must report concerns to their local HR team, who should seek advice from the NHS England safeguarding team, england.nursingandqualitycntw@nhs.net or, directly through the Head of Safeguarding. The following groups may be referred for information to the Disclosure and Barring Service:

- If an employee or worker of NHS England 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).

NHS England's Disciplinary policy (2013) provides further information on the procedures to be followed;

<https://nhsengland.sharepoint.com/Documents/PoliciesandProcedure/DisciplinaryPolicy%201.0.pdf>

- A referral to the DBS should be made following initial information gathering to establish whether there is cause for concern. A referral should be made even if the person in question has left NHS England 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 should 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>

8 Record keeping

8.1 The Nominated Safeguarding Senior Officer will have the 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 the NHS England 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 (in accordance with the NHS England record keeping policy).

A checklist is provided in Appendix 2.

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

8.3 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.

9 Post Investigation Review

9.1 Following the completion of the initial investigation, the Nominated Safeguarding Senior Officer will lead a review of the case and its actions.

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

9.3 As well as supporting the member of staff throughout the investigation, consideration must be paid to supporting the member of staff through integration back into the workplace should this be appropriate post-

investigation. On-going support for the member of staff may be offered through Occupational Health.

10 Monitoring

- 10.1 The National Safeguarding Steering Group will monitor compliance of this policy, through the Regional Safeguarding Leads.
- 10.2 The Head of Safeguarding is responsible for the monitoring, revision and updating of this policy. The Head of Safeguarding will act on behalf of the Chief Nursing Officer (CNO) in this respect, and will update the CNO on its implementation.
- 10.3 This policy will be monitored with regard to the implications of equality and diversity on a regular basis.

11 Equality and Health Inequalities Analysis

- 11.1 Promoting equality and addressing health inequalities are at the heart of NHS England values. Throughout the development of the policies and processes cited in this document, we have:

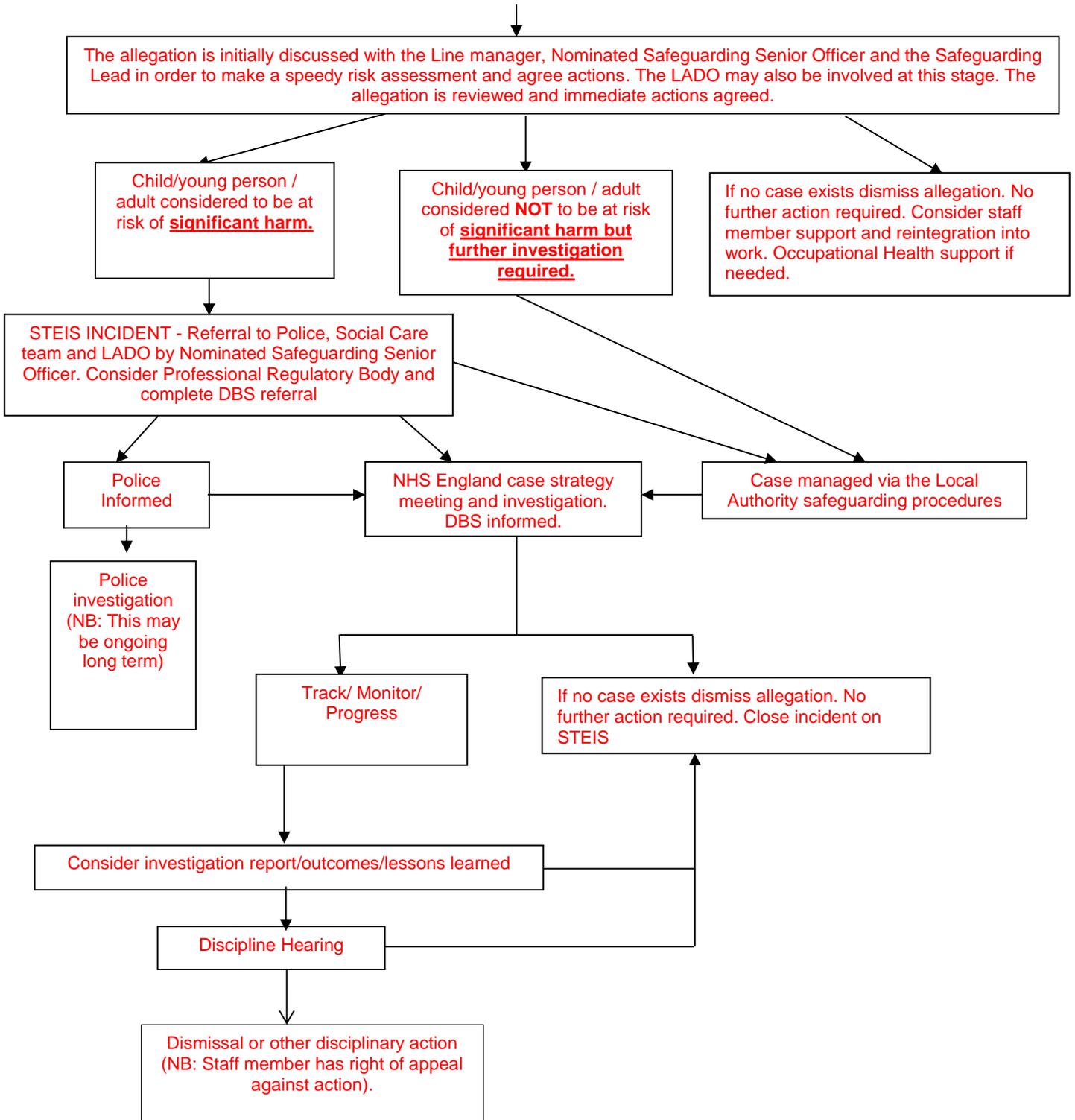
Given due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity, and to foster good relations between people who share a relevant protected characteristic (as cited under the Equality Act 2010) and those who do not share it;

Given regard to the need to reduce inequalities between patients in access to, and outcomes from, healthcare services and in securing that services are provided in an integrated way where this might reduce health inequalities.

12 Appendix 1 - Process Flow Chart

Allegation Received.

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Dismissal or other disciplinary action

13 Appendix 2 – Record keeping Checklist

The Nominated Safeguarding Senior Officer 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 NHS England 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"/> LADO 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