



Managing Allegations

Brian Smith

Aims of the course

- Participants are able to respond effectively to allegations about staff or volunteers, keep children safe and ensure staff are treated fairly.



Starting points

- Time keeping
- Confidentiality
- Respect
- One person to talk at a time
- Mobiles off
- We model partnership behaviours
- Share knowledge and expertise
- Challenge jargon that stops us understanding each other

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Your expectations

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What you want from the day

The course...

- complaints, quality of care & allegations
- analytic and effective referrals to the LADO
- internal investigations in line with interagency guidance
- participate effectively in strategy discussions
- proportionate & evidenced decisions about suspension
- Working with young people, parents and other agencies
- Lead work under disciplinary and capability procedures
- template managing allegations procedure and tools



Risk from **staff** in residential care

- 10-12 allegations per 100 children across the UK
- 2-3 allegations per 100 substantiated
- $\frac{1}{4}$ (7/28) of substantiated allegations related to 2 residential units
- $\frac{1}{2}$ allegations physical abuse or excessive physical restraint – 75% about men
- heightened risk of neglect for disabled children



Cultural and systemic **dangers**

- regression therapy (Leicestershire)
- Pindown (Staffordshire)
- confrontational restraint (Aycliffe)



Peer risks

- child sexual exploitation
- bullying
- violence
- emotional abuse
- relationships



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Protective features

- strong leadership
- positive staff culture
- close inclusive relationships
- high quality supervision
- effective monitoring and placement review good interagency communication
- use of LADO
- child centred rights based approach
- calm, authoritative staff, with strategies to respond
- anger management work with young people
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Raising concerns

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How does it feel

Raising concerns

- In pairs – last time you were challenged about your practice.
 - How was it done?
 - How did it feel?
- What about you raising concerns with others?
 - How does that feel?



Allegations

There's a concern about a member of staff's relationship with a young person. There's worry they treat them better than other young people, seek opportunities to spend time alone with them. A concern is raised with the manager.

How does it feel if you are... the manager?
the member of staff?
the person making the allegation?
another member of staff who knows?





Process

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How to deal with allegations

Allegation



A claim or assertion that someone has done something illegal or wrong, typically one made without proof



Oxford Dictionaries



What is a LADO?



To be involved in the management and oversight of allegations against people **that work with children**



Oxford Dictionaries



Initial response

- There are two aspects to consider when an allegation is made:
- Looking after the welfare of the child
- Investigating and supporting the person subject to the allegation - the case manager should discuss with the LADO, the nature, content and context of the allegation, and agree a course of action.



Guidance

Welcome to the South West Child Protection Procedures

November 2018

This is the home page for the Child Protection Procedures for the South West Region.

Each Board has its own site, which provides a 'gateway' to the shared child protection procedures for the region. In addition to the shared procedures you can also access local guidance for your area by clicking on the local information section within each chapter.

To access the Boards' Child Protection Procedures for your area please click your Board's logo below.



LSCB
Bath & North East Somerset
Local Safeguarding Children Board

Bath & North East Somerset Child Protection Procedures



BSCB Bristol Safeguarding
Children Board

Bristol Child Protection Procedures



Cornwall & Isles of Scilly Safeguarding Children Partnership



Devon Children and Families Partnership



Gloucestershire Child Protection Procedures



North Somerset Child Protection Procedures



Plymouth Child Protection Procedures



Somerset Child Protection Procedures



South Gloucestershire Child Protection Procedures



Swindon Child Protection Procedures



Torbay Child Protection Procedures



Wiltshire Child Protection Procedures



HM Government

Working Together to Safeguard Children

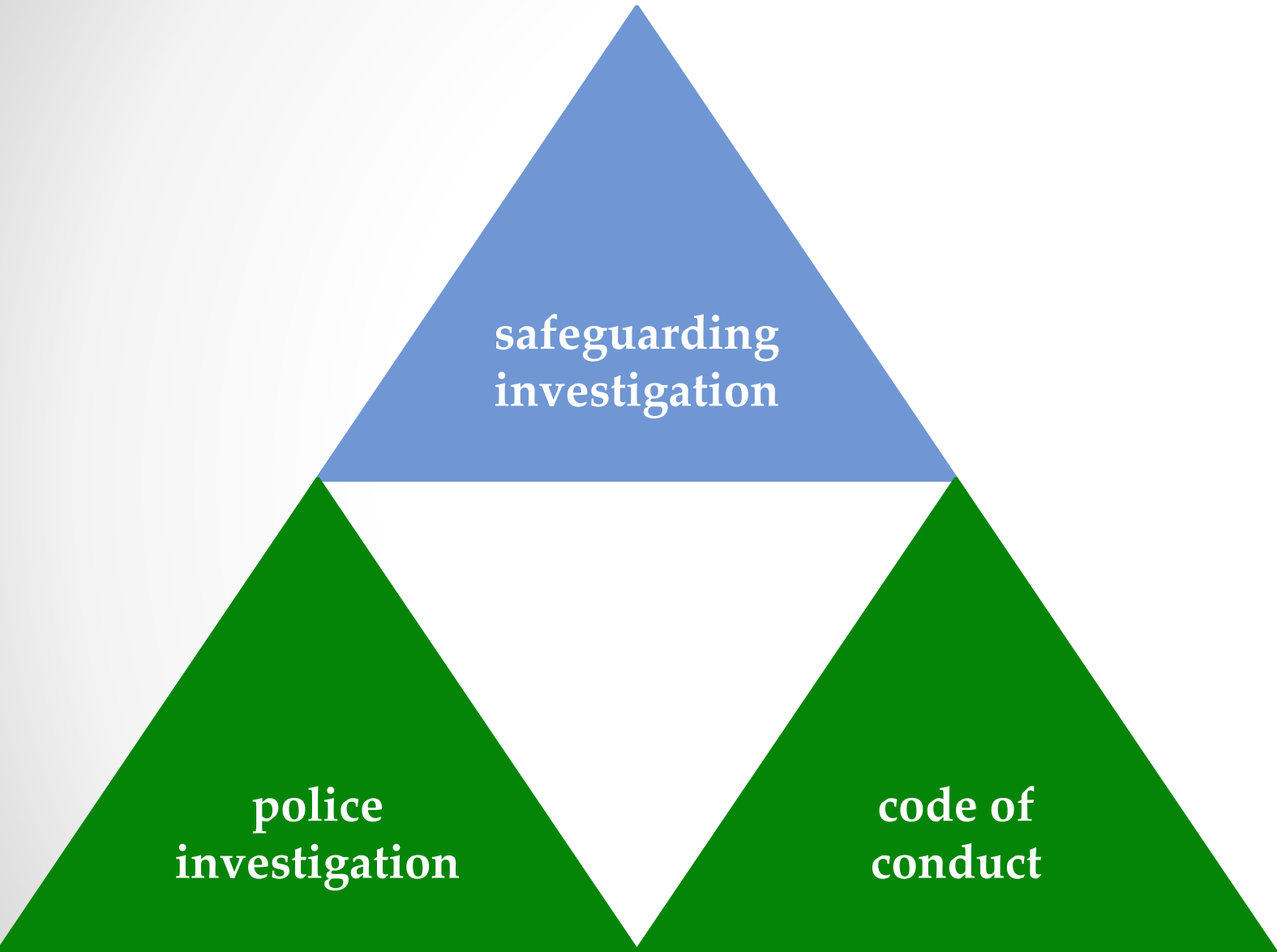
A guide to inter-agency working to safeguard and promote the welfare of children

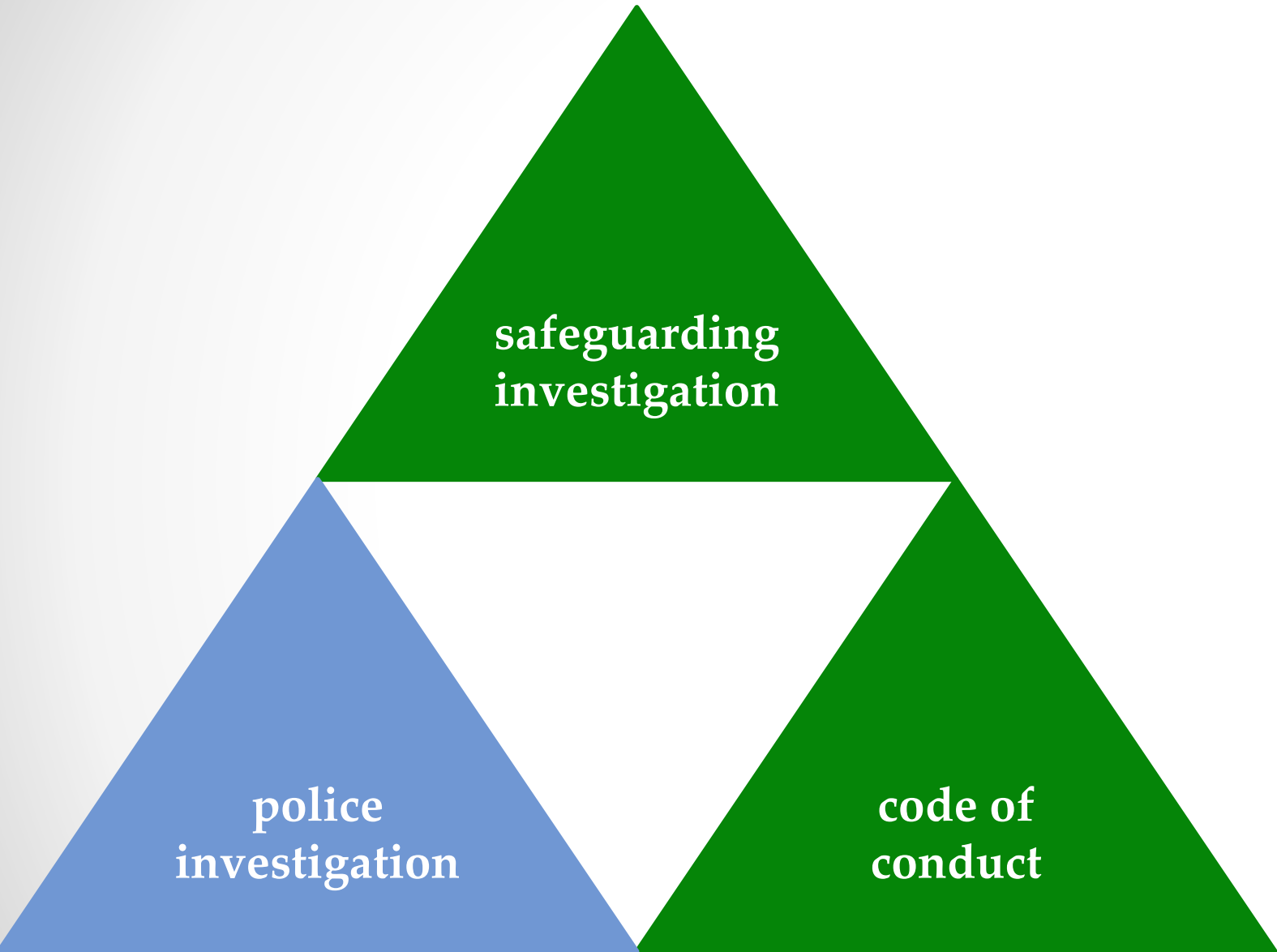
July 2018

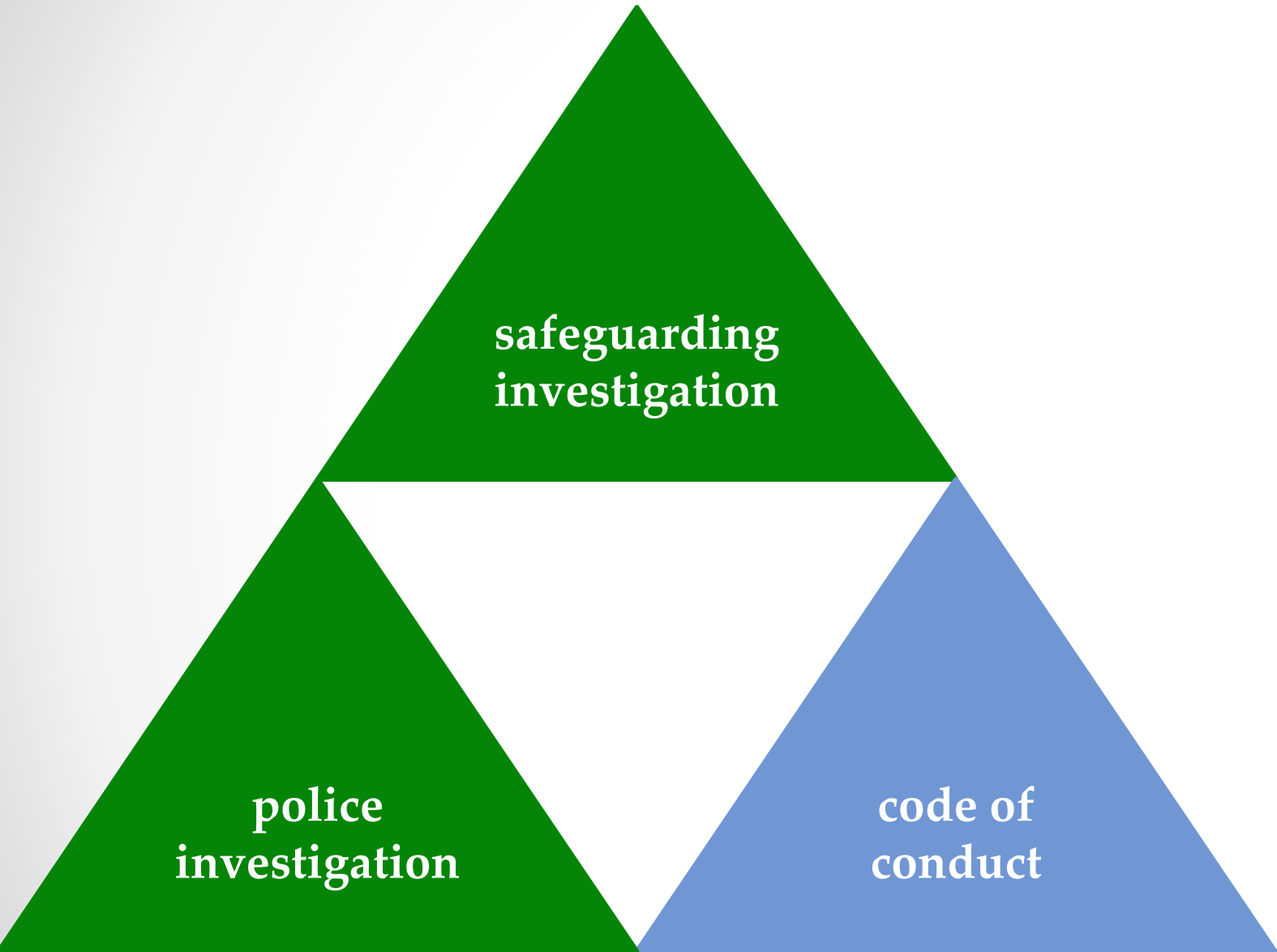
When is it an allegation? or safeguarding concern?

1. behaved in a way that has harmed a child, or may have harmed a child;
2. possibly committed a criminal offence against or related to a child;
3. behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children
4. behaved or may have behaved in a way that indicates they may not be suitable to work with children









How **sure** should you be?

100%



0%

“Beyond all
reasonable doubt...”



How **sure** should you be?

100%



“Beyond all **reasonable** doubt...”

“balance of **probability**”

0%



How **sure** should you be?

100%

“Beyond all **reasonable** doubt...”

50%

“balance of **probability**”

“reasonable cause
to **suspect**”

0%



How **sure** should you be?

100%

“Beyond all **reasonable** doubt...”

50%

“balance of **probability**”

“reasonable cause to **suspect**”

0%



First duty: ensure immediate safety

- Young person
- Other young people, including those in staff families
- Staff
- General public

What has happened? **If true**, what would be the risk?

Take necessary action accordingly, until you are certain of facts

Follow procedure



Scenarios

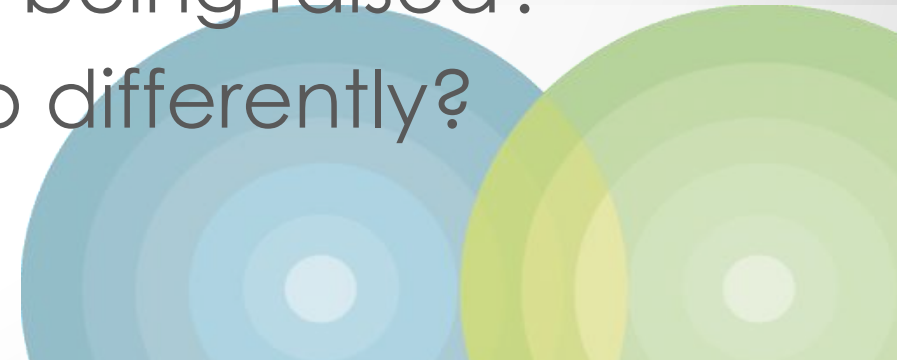
- 1. The member of staff is heard shouting at a child because they are being disruptive in the home.
- 2. The member of staff swears at a child because they are not following instructions.
- 3. Several children in a home approach the manager to raise a concern that one of the members of staff doesn't respect their personal boundaries and regularly touches them on the shoulder or squeezes between them to watch TV on the couch.
- 4. The member of staff receives a disclosure from a child and does not tell the Designated Safeguarding Lead.

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Low level concerns

- Staff should know how to handle low level concerns and this contained in staff behaviour policy
- Are there previous low level concerns?
- Do these add together to meet threshold for referral to LADO?
- Does this constitute a breach of the Code of Conduct?
- Why was the person raising the concern worried?
- What can we learn from the concern being raised?
- Is there anything the subject could do differently?



Case studies

- Low level concern
- Capability
- Disciplinary
- Strategy Discussion
- Police investigation



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To suspend, or not to suspend?



Suspension should not be the default position:
an individual should be suspended only if there is no
reasonable alternative



Keeping Children Safe in Education 2018 para 198



Suspension – **key questions**

- Interim prohibition order

You must immediately suspend.

- cause to suspect the child or other children are at risk of harm?
- might this be grounds for dismissal?

If both answers are 'no', insufficient grounds for suspension

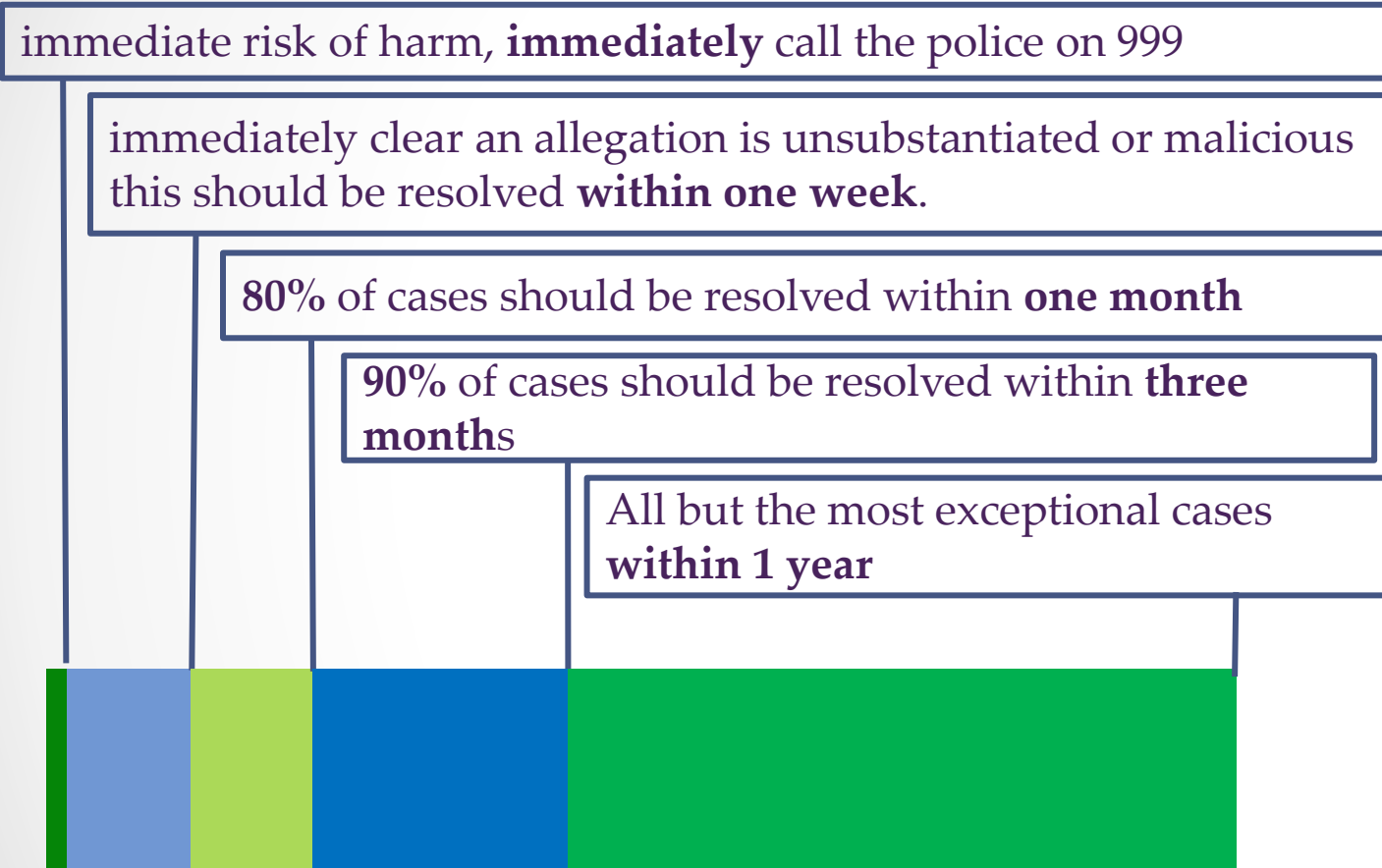
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Suspension - **alternatives**

- Redeployment with no direct contact with children
- Redeployment to no unsupervised access to children
- Moving children while making it clear not a punishment
- Redeployment to another location



Timescales – delay is in **no one's interests**



- Disciplinary action, where this can be held without further investigation, should take place within **15 working days**.
- Any other action should take place within **3 working days**

Notifying parents

- Parents must be advised of allegations at the earliest opportunity
- Decision about what information is shared can be with LADO and other agency advice
- Bear in mind their child likely has information about who the allegation concerns and similar, so your information sharing should be proportionate
- Consider support they or their child may need
- Teachers are protected during investigations by s141 (f) Education Act 2002



Repeat or malicious allegations

- **Interagency** work around these issues
- These increase risk a young person will be targeted, so **always** take allegations seriously
- Adopt a '**common sense**' approach that does not disrupt running of the home
- Assess and agree protocols with senior managers, LADO, children's services parents and other key agencies **prior** to deviating from procedure. Consider notifying the regulator.
- **Each** allegation should still be investigated



Potential outcomes following an allegation

- No Further action – After discussion with the LADO agreed NFA and agreed record for the decision with parties written to
- Further Enquires – Where the LADO and Case Manager need to gather more information. Timescales and focus on what is required should be clear at this stage

The consideration of suspending the staff member at this stage but suspension is not a default action.

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Investigations

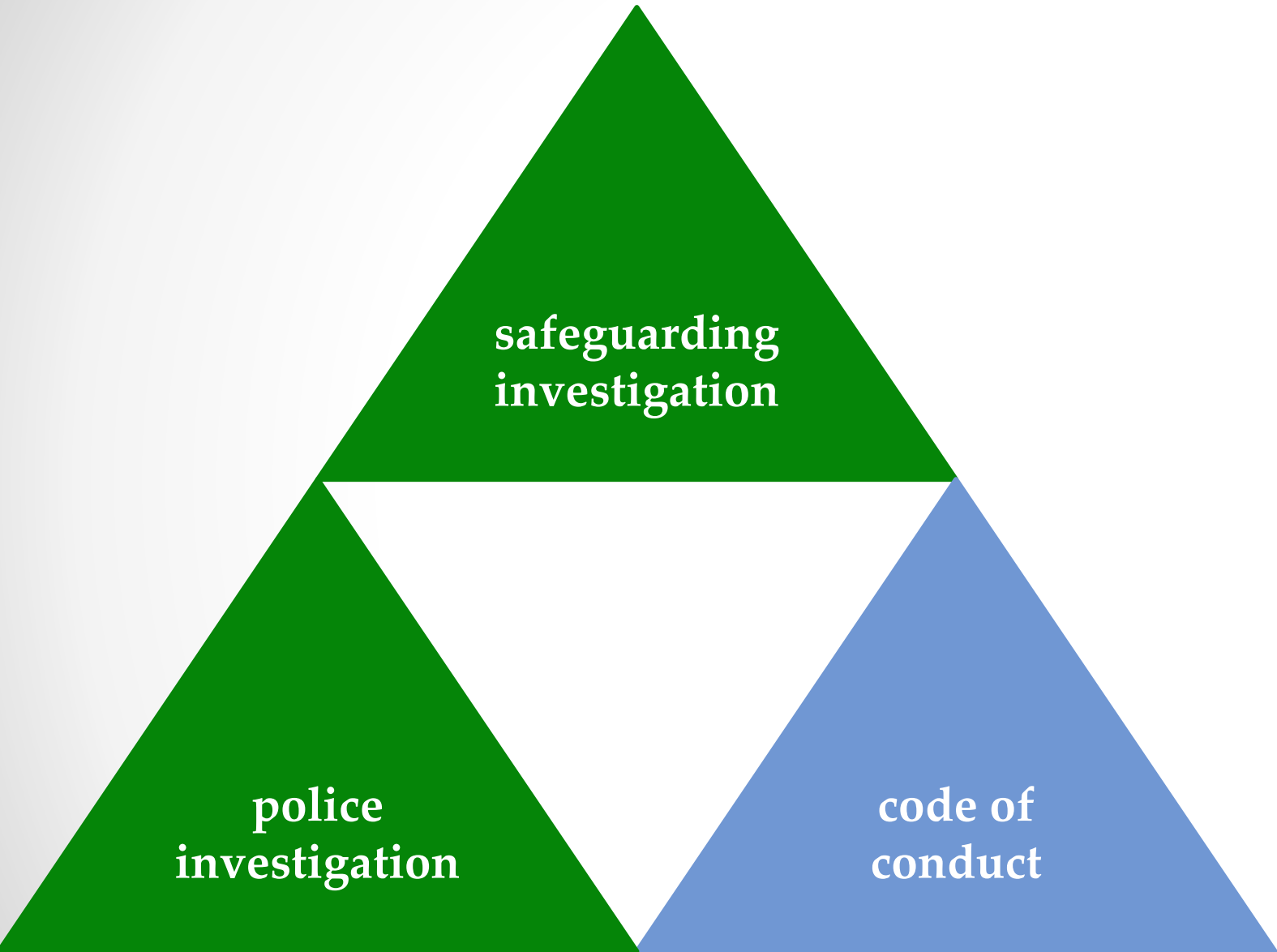
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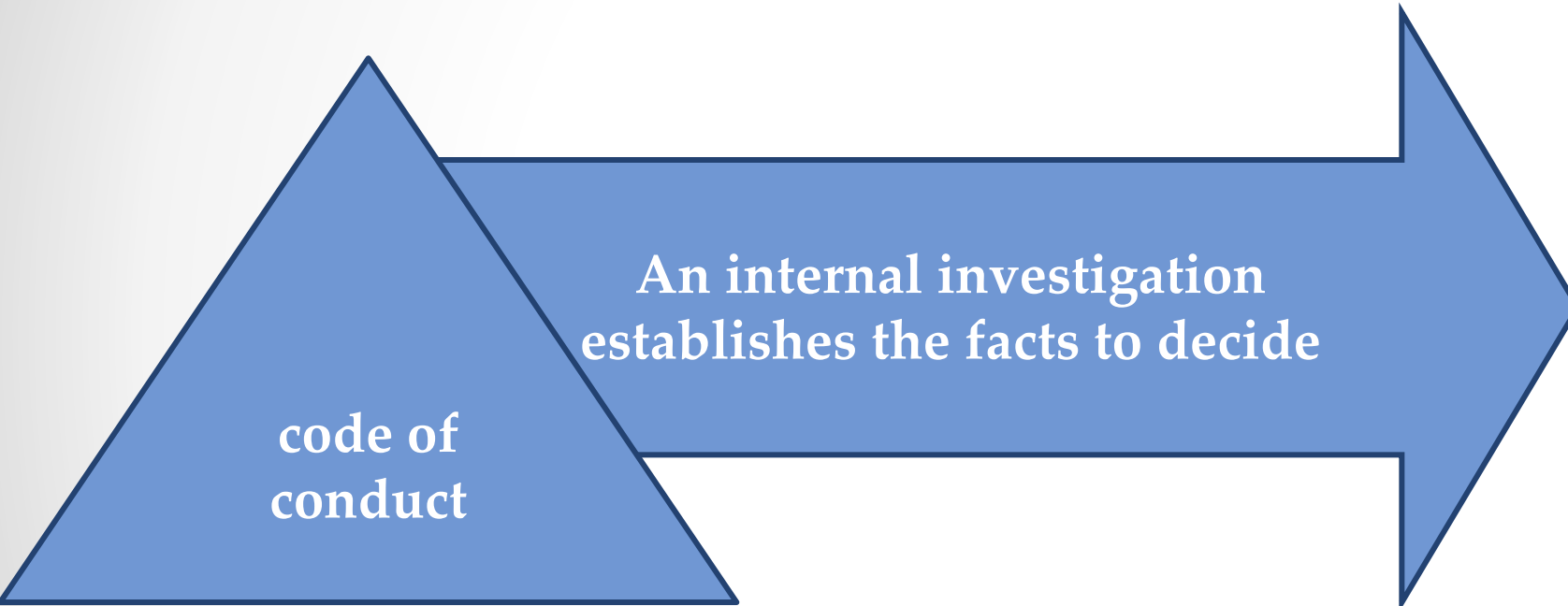
A 'how to' guide...

Support for subjects

- Anxiety will be high – always act with compassion
- Share information with them at earliest opportunity – consult with LADO/Police/Children's Services where relevant first
- Named person to support & keep appraised every 2 weeks
- Suggest trade union representation, or to find a friend
- Offer counselling and health services
- Put this all in writing, including right to take issue about delay
- Consider return to work approach, possible phased return, mentor etc







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|-----------------------------|--|
| Further Strategy Discussion | <u>STOP</u> |
| Police investigation | Request further strategy discussion |
| Disciplinary Investigation | <u>STOP</u> |
| Capability Process | Follow relevant procedure & merge investigations |
| Professional practice issue | Ensure discussed in supervision |
| No further action | |

Undertaking an internal investigation

- Fact finding – this is not a disciplinary or capability process. Not always needed if clear HR pathway
- Agree terms of reference/scope with LADO and RI, and limits of the investigation (e.g. if it becomes clear a crime has been committed)
- Identify an independent investigating officer
- Identify and interview witnesses, including the young person where possible and appropriate
- Evaluate your evidence



Planning principles

- Fair – looking back, will it **appear** fair?
- Independent – **who** should investigate?
- A '**reasonable** investigation of the facts'
- Balance of **probability**
- Young person's **voice** (if relevant)
- Opportunity for **rebuttal**
- **Recommendations**, not decisions



Planning

- What is the **concern**? Agree terms of reference
 - what evidence will you need?
 - what is already available?
 - What are the implications?
 - Agree the terms of reference with senior leaders & LADO
- **Top tip** – prepare the report structure now and start writing!



Planning

- What is the **concern**? Agree terms of reference
- Seek to **triangulate** the evidence
- **List** everyone to speak to, everything to see
- Place in **order** and **prepare** questions against your evidence
- Consider how interviews are **recorded**
- Consider **support** needs and write to invite
- **Analyse** findings
- Write **report**



Interviews

- Notice (bear in mind timescales if fact finding)
- Who is present – each individual separately, no surprises!
- Venue – privacy, disturbances, breakout if distressed, think H&S
- Prepare an introductory statement and your questions
- Fair, balanced, more about listening
- Evidence gathering – reflect back to check captured right
- Keep them focused on the questions
- What does the person see as the resolution?
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Report writing

- Terms of reference
- Allegations and chronology of incident & investigation
- Findings – tie to policy statements, training
- Conclusions
- Learning for the home
- Recommendations
- Supporting documents – each interview is an appendix



Findings

- Substantiated
- Malicious
- False
- Unsubstantiated
- Unfounded



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Actions if substantiated

If the person is dismissed; resigns, or otherwise ceases to provide his or her services, or the employer ceases to use the person's services.

There is a legal requirement to refer to DBS and consideration of further action related to the person working with children.



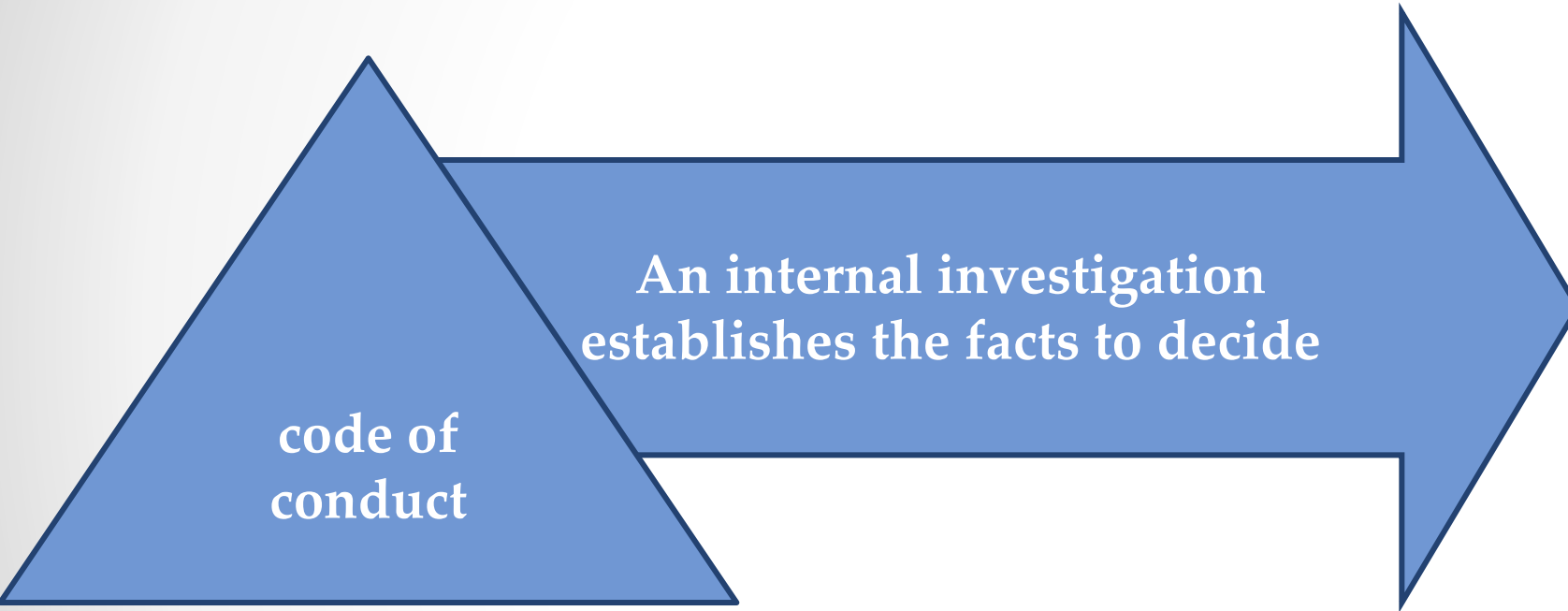
Unsubstantiated

If an allegation is determined to be unsubstantiated, unfounded, false or malicious, the LADO and the case manager should consider whether the child and/or the person who has made the allegation is in need of help or may have been abused by someone else and this is a cry for help. In such circumstances, a referral to local authority children's social care may be appropriate

If deemed malicious there should be consideration of disciplinary action in line with code of conduct.

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|-----------------------------|--|
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Outcome

- Start with the child
- Implications for individual member of staff
- Notifications (LADO, Ofsted, DBS, local authority, parents)
- How the team are affected
- Organisational learning





Thank you
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