

ACHIEVEMENT, STUDENTS & LEADERS MATTER



Procedure for Dealing with Allegations of Abuse Made Against Staff, Volunteers and Agency Workers

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1 Purpose

This procedure is about managing cases of allegations that might indicate that a person is unsuitable to work with children in their present position or in any capacity.

The purpose of the procedure is to ensure that any allegation of abuse made against a member of staff, volunteer or agency worker is dealt with fairly, quickly and consistently. The procedure aims to provide effective protection for the child and at the same time support the person who is the subject of the allegation.

2 Legal considerations

- **Education legislation:** There are various statutory requirements on schools to safeguard and promote the welfare of children. The framework for managing cases of allegations of abuse made against people who work with children is set out in Part Four of Keeping Children Safe in Education and Working Together to Safeguard Children.
- **Statutory reporting:** The trust/school are required to supply information to the DfE (Teacher Regulation Agency where they have dismissed or ceased to use the services of a person because they consider the person is unsuitable to work with children. The trust/school are also required to make a referral to the Disclosure and Barring Service where the conclusion of an investigation is that the worker has engaged in conduct that has harmed (or is likely to harm) a child.

3 Roles and responsibilities

- **Trust:** The trust has overall responsibility for ensuring that there are appropriate procedures in place for dealing with allegations of abuse made against people working with children that comply with guidance from statutory and locally agreed inter-agency procedures.
- **Chief Executive Officer/Principal:** The Principal is responsible for ensuring that the policies and procedures adopted by the trust are fully implemented and followed by all staff and workers. In the case of Central Services staff, this responsibility would fall to the CEO.
- **Local authority designated officer (LADO):** This person has overall responsibility for oversight of the procedures for dealing with allegations, for resolving any inter-agency issues and for liaison with the Multi-Agency Partnership (MAP). In addition, they will also be involved in the management and oversight of individual cases including providing advice and guidance, liaising with the police and social services and monitoring the progress of cases to ensure they are dealt with quickly, consistently and fairly.
- **Employee representatives:** Where an employee is subject to an allegation of abuse, they should be encouraged to contact their trade union for advice. The recognised trade unions in the school are ASCL, ATL, NAHT, NASUWT and NUT for teaching staff and GMB and Unison for support staff. All trade union officials, regardless of whether the union is recognised, may represent their members individually.

4 Policy statement

The trust are committed to safeguarding and promoting the welfare of children and young people and expect all staff and volunteers to share this commitment.

The standards expected are set out in the school's 'Employee Code of Conduct/Staff Behaviour Policy'. The trust takes seriously any allegation that a member of staff or volunteer has acted inappropriately regarding the welfare of children. Unacceptable conduct by employees may be dealt with under the school's disciplinary procedure and could include dismissal from employment. Unacceptable conduct by volunteers or agency workers could result in the end of the arrangements for their services.

The trust recognises that it is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation. Every effort will be made to avoid any unnecessary delay. The time taken to investigate and resolve individual cases will depend on a variety of factors including the nature, seriousness and complexity of the allegation. The timescales shown for different actions within the procedure are therefore indicative and will be adjusted where necessary, particularly where they are outside the control of the school.

5 Action when dealing with an allegation of abuse against a member of staff, volunteer or agency worker

The detailed arrangements for handling all allegations of abuse (not just those against a member of staff or volunteer) are set out in the school's 'Safeguarding Policy/Child Protection Procedures'. Specific considerations when dealing with allegations of abuse made against a member of staff, volunteer or agency worker in a school context are set out below.

The flowchart in Appendix 1 summarises the process.

5.1 Initiating the procedure

The procedure will be initiated where it is alleged that the member of staff, volunteer or agency worker:

- 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; or
- behaved towards a child or children in a way that indicates they 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.

5.1 Reporting of allegations

- An allegation against a member of staff or volunteer should be reported to the Principal immediately, or where the allegation relates to the Principal, it should be reported to the Chair of Governors. In the case of Trust Central Services staff, allegations should be reported to the Chief Executive Officer, or where the allegation relates to the CEO, the Chair of the Trust. The trust's Director of HR should also be informed.
- In some cases allegations may arise from a complaint under the 'Policy for Confidential Reporting of Concerns' ("whistleblowing"). Where the nature of the complaint meets any of the criteria set out above, this should be brought to the attention of the CEO or Principal immediately.

- Where an allegation against a member of staff or volunteer is made to the police or children's social care, the officer who receives it will inform the local authority designated officer without delay. They should inform the Principal and the trust Director of the same day.

5.2 Initial consideration

- On receipt of an allegation, a 'case manager' should be assigned by the Principal or CEO. This will normally be the Principal.
- Where it is identified that there is an immediate risk of harm to a child or the situation is an emergency, the case manager should contact children's social care and, as appropriate, the Police immediately in line with requirements under Part 1 of Keeping Children Safe in Education.
- The case manager should conduct an initial assessment of facts in order to determine whether there is any foundation to the allegation, being careful not to jeopardise any future police investigation.
- Where the initial assessment indicates that the harm test may have been met, the local authority designated officer (LADO) must be contacted. The LADO will discuss the matter with the case manager and, where necessary, obtain further details of the allegation and the circumstances in which it was made. No further steps should be taken to investigate the allegation at this stage. The discussion should also consider whether there is evidence or information that establishes that the allegation is false or unfounded.
- If the parents/carers of the child are not already aware of the allegation, the local authority designated officer will also discuss how and by whom they should be informed. In circumstances in which the police or social care may need to be involved, the local authority designated officer should consult those colleagues about how best to inform parents.
- Parents/carers must be notified of the need to maintain confidentiality regarding allegations against staff whilst investigations are being carried out.
- The Principal (or CEO in respect of trust staff) should inform the person against whom the allegation has been made as soon as possible after consulting the local authority designated officer. However, where the police or social care may need to be involved, this must not be done until those agencies have been consulted and have agreed what information can be disclosed to the person. If the person is a member of a union, they should be advised to contact that organisation for advice.
- Considerations about whether an employee should be suspended or placed on paid leave pending further action are set out in the Disciplinary Procedure and should be decided in consultation with the trust's Director of HR. The school/trust should consider whether arrangements such as redeployment would be an appropriate alternative to suspension. The local authority, the police or children's social care cannot require the school to suspend a member of staff. However, where a strategy discussion or initial evaluation concludes that there should be enquiries by social care and/or an investigation by the police, the local authority designated officer should canvass police and social care views about whether the member of staff needs to be prevented from having contact with children so that this can inform the school or trust's consideration.

- An employee who is suspended or placed on paid leave will be provided with the name of an appropriate person to act as an information contact. The main role of the contact person is to provide information about the progress of the investigation. Social contact with colleagues and friends at the school should not be prevented except where it is likely to be prejudicial to an investigation.
- Employees subject to allegations will be offered support including a referral to Occupational Health.

5.3 Case where children’s social care undertakes enquiries

- If there is cause to suspect that a child is suffering or is likely to suffer significant harm, the local authority designated officer will immediately refer to children’s social care and ask for a strategy discussion to be convened straight away involving the local authority children’s social care and the police. The discussion should include the local authority designated officer and the Principal, or CEO in the case of trust staff.
- If the allegation is about physical contact, the strategy discussion should take account of the fact that school staff are entitled to use reasonable force to control or restrain pupils in certain circumstances including dealing with disruptive behaviour.
- In a strategy discussion the agencies concerned should share all relevant information they have about the person who is the subject of the allegation and about the alleged victim.
- In such cases children’s social care should consider what support the child or children involved may need.
- Wherever possible children’s social care should obtain consent from the individuals concerned to share the evidence they obtain with the school or trust for disciplinary purposes. That should be done as the investigation proceeds rather than after it is concluded.
- In any case in which children’s social care has undertaken enquiries to determine whether a child or children are in need of protection, any information obtained in the course of those enquiries which is relevant to a disciplinary case should be passed to the school or trust once the enquiries are concluded. The school/trust will then consider any action that it needs to take, as set out below.

5.5 Case subject to police investigation

- If there is not cause to suspect that “significant harm” is involved but a criminal offence may have been committed, the local authority designated officer should immediately inform the police and convene an initial evaluation meeting to decide whether a police investigation is needed. The discussion should include the Principal (or CEO in the case of trust staff) and any other agencies involved with the child. Where a police investigation is necessary, the joint evaluation will also consider whether there are matters which can be taken forward under the disciplinary procedure in parallel with the criminal process or whether any disciplinary action will need to wait completion of the police enquiries and/or prosecution.

- If the allegation is about physical contact, the initial evaluation with the police should take account of the fact that school staff are entitled to use reasonable force to control or restrain pupils in certain circumstances including dealing with disruptive behaviour.
- In an initial evaluation of the case the agencies concerned should share all relevant information they have about the person who is the subject of the allegation and about the alleged victim.
- In such cases the police should consider what support the child or children involved may need.
- If a criminal investigation is required, the school should maintain contact with the police and LADO in order to establish progress with the investigation and whether any actions are necessary.
- Wherever possible the school should ask the police to obtain consent from the individuals concerned to share the statements and evidence they obtain with the school for disciplinary purposes. That should be done as the investigation proceeds rather than after it is concluded.
- If the police and/or CPS decide not to charge the person with an offence, or decide to administer a caution, or the person is acquitted by a Court, the police should inform the LADO who will then discuss with the case manager in order to consider any action that needs to be taken, as set out below.
- If the person is convicted of an offence, the police should also inform the school immediately so that appropriate action can be taken, as set out below.

5.6 Case subject to action by the school/trust

- If the allegation is such that it is clear that enquiries by social care and/or investigation by police are not necessary, or the strategy discussion or initial evaluation decides that is the case, the local authority designated officer should discuss appropriate action with the Principal (or CEO in the case of trust staff) in consultation with the trust's Director of HR. In deciding on the course of action to be taken, the Principal/CEO will consider:
 - the nature and circumstances of the allegation;
 - the evidence available; and
 - the available courses of action depending on whether the person involved is an employee, volunteer, self-employed or is supplied by an agency, contractor or partner organisation.
- In the case of employees, reference should be made to the trust's Disciplinary Procedure in considering the available course of action.

If a disciplinary hearing is required and can be held without further investigation, the hearing should be held within 15 working days.

Where further investigation is required to inform consideration of disciplinary action, the Principal/CEO will discuss who will undertake that with the local authority designated officer. In some circumstances it may be appropriate for the disciplinary investigation to be conducted by a person

who is independent of the school/trust. The investigating officer should aim to provide a report within 10 working days. On receipt of the report, the Principal/CEO should consult the local authority designated officer within two working days and decide whether a disciplinary hearing is needed. If a hearing is needed, it should be held within 15 working days.

- Where the person is an agency worker, contractor, partner organisation, volunteer or self-employed, normal disciplinary procedures will not apply. However the case manager must follow section 5.2 in relation to conducting an internal investigation. . Where the initial assessment of facts indicates that there may be a case to answer, the matter must be reported to the LADO to discuss further action.
- The outcome may be that the services of the person are no longer required Where the person involved is supplied by an agency, contractor or partner organisation, the third party organisation will need to be involved in and co-operate with any action taken

5.7 Communication during and at the end of the case

- Parents/carers of a child or children involved should be kept informed of progress of the case.
- The school/trust will also keep the person who is the subject of the allegations and their representative informed of the progress of the case and consider what other support is appropriate for the individual. This may be done by the person's contact officer.
- The local authority designated officer will regularly monitor the progress of the case, through liaison with social care, the police and/or the school as appropriate. Reviews should be held at fortnightly or monthly intervals depending on the circumstances of the case.
- The parents or carers of a child or children involved should be informed of the outcome of the case including the outcome of any disciplinary process. The confidentiality of detailed information about the disciplinary process is set out in the Disciplinary Procedure.

6 Resignations and Settlement Agreements

- The fact that a person tenders their resignation, or ceases to provide their services, must not prevent an allegation being followed up in accordance with these procedures. Every effort will be made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children, including any in which the person refuses to cooperate with the process. Wherever possible, the person should be given a full opportunity to answer the allegation and make representations about it. Failing this or if the person refuses to co-operate, the process of recording the allegation and any supporting evidence and reaching a judgement about whether it can be regarded as substantiated on the basis of all the information available should continue. It may be difficult to reach a conclusion in those circumstances and it may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete but the school will aim to reach and record a conclusion wherever possible.
- Settlement agreements, where the person agrees to resign and the school agrees not to pursue disciplinary action, must not be used in these cases. In any event, such an

agreement will not prevent a police investigation nor the school exercising its statutory duty to make a referral to the DfE and DBS where appropriate.

7 Notification to the Department for Education and Disclosure and Barring Service

- Employers and agents in the education sector are required to supply information to the DfE where they have ceased to use the services of a person (including a volunteer or worker from a supply agency) on a number of grounds including where they consider that the person is may pose a risk of harm to children.
- Information must also be provided where the employer or agent would have ceased to use the person's services on these grounds if the person had not ceased to provide them or might have refrained from reengaging a person on these grounds if the person had not ceased to make themselves available for work.
- Employers and agents in the education sector are also required to make a referral to the Disclosure and Barring Services in cases where where the conclusion of an investigation is that the worker has engaged in conduct that has harmed (or is likely to harm) a child
- The Local Authority Designated Officer will discuss with the school/trust and its Director of HR whether a referral to the DfE and DBS is required. Any referral required will be made without delay, and within one month.

8 Returning to work

- The school/trust will consider how best to facilitate the return to work of an individual who has been suspended or on paid leave. Depending on the individual circumstances short-term additional support, such as a phased return and/or provision of a mentor, may be appropriate. The school/trust will also consider how the person's contact with the child or children involved in the allegation can best be managed.

9 Reviewing the case

- At the conclusion of a case in which an allegation is substantiated the local authority designated officer will review the circumstances of the case with the Principal/CEO and/or chair of governors/chair of trust to determine whether there are any improvements to be made to the procedures or practice to help prevent similar events in the future.

10 Action in respect of false allegations

If an allegation is determined to be false, the local authority designated officer will refer the matter to children's social care to determine whether the child concerned is in need of services or may have been abused by someone else. In the event that an allegation is shown to have been deliberately invented or malicious, the Principal should consider whether any disciplinary action is appropriate against the pupil who made it. Alternatively, the police should be asked to consider whether any action might be appropriate against the person responsible if they were not a pupil.

11 Record keeping and References

- A clear and comprehensive summary of allegations made, details of how the allegation was followed up and resolved and a note of any action taken and decisions

reached must be made. This should be retained on a person's confidential file and made available to the person concerned upon request.

- The purpose of the record is to enable accurate information to be given in response to any future reference request and to provide clarification in cases where a future certificate of disclosure from the Disclosure and Barring Service reveals information from the police about an allegation that did not result in a criminal conviction. It may also help to prevent unnecessary further investigation if an allegation resurfaces after a period of time.
- Where an allegation was proven to be false, unsubstantiated or malicious, it should not be included in employer references. Substantiated allegations must be disclosed to future employers in all cases.
- The records will be retained at least until the person reaches normal retirement age or for a period of 10 years from the date of allegation if that is longer.
- Details of the expiry of warnings and the withdrawal of disciplinary records are set out in the trusts Disciplinary Procedure.

12 Concerns that do not meet the harm threshold

Where concerns remain but do not meet the harm threshold, consideration will be given as to whether conduct has fallen short of that expected in line with the Employee Code of Conduct/Staff Behaviour policy. Appropriate action should be taken either through training and support, or where necessary, disciplinary procedures, or a combination of both.

13 Relationship with other policies and procedures

- **Staff Behaviour Policy/Employee Code of Conduct:** This sets out the standards expected of staff working with children.
- **Disciplinary Procedure:** Schools must follow their disciplinary procedure where it is appropriate to take such action against an employee.
- **Dismissal Procedure for Contravention of a Statutory Enactment or Some Other Substantial Reason:** In some circumstances this procedure may be applicable instead of the disciplinary procedure.

Appendix 1 – Summary of procedure for managing allegations of abuse

