

MANAGING ALLEGATIONS AND CONCERNS AGAINST INDIVIDUALS

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Introduction

In rare instances, staff of educational institutions have been found to be responsible for child abuse and, because of their frequent contact with children and young people, members of staff may have allegations of child abuse made against them.

The Trust recognises that an allegation of child abuse made against a member of staff may be made for a variety of reasons and that the facts of the allegation may or may not be true. As such, those dealing with an allegation must maintain an open mind, ensure that investigations are thorough and are not subject to unnecessary delay.

Whilst the Trust recognises the welfare of the child is the paramount concern, it is also recognised that hasty or ill-informed decisions in connection with a member of staff can irreparably damage an individual's reputation, confidence and career.

When dealing with allegations and safeguarding concerns, the Trust will do so with sensitivity, acting in a careful and measured way but with due regard to conducting matters as quickly as possible in a fair and consistent way that provides for effective child protection as well as supporting the member of staff who is the subject of the allegation.

Allegations of this nature against employees will not be dealt with under the complaints procedure.

This policy is compliant with Keeping Children Safe in Education.

This policy will also be used for volunteers and supply staff.

Section 1 Action on receipt of an allegation that may meet the harm threshold

The following steps should be followed if the allegation indicates that the person could pose a risk of harm if they continue to work in their present position, or in any capacity with children.

The harm test applies to anyone working in the Trust including employees, supply staff, volunteers, governors / trustees and contractors where it is alleged that someone has:

- 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 indicated they would pose a risk of harm to children
- behaved or may have behaved in a way that indicates they may not be suitable to work with children (this includes behaviour which may have happened outside of the school that might make an individual unsuitable to work with children, this is known as a transferable risk).

An allegation of harm must be reported to the Designated Safeguarding Lead in the school who will liaise with the Headteacher.

Should the initial allegation first be made to any other member of staff they must either request the person raising the allegation to report it to the Designated Safeguarding Lead, or if that is not possible, they should pass details of the allegation to the Designated Safeguarding Lead immediately.

Should an allegation be made against the Designated Safeguarding Lead, then this should be brought to the attention of the Headteacher immediately.

Should an allegation be made against the Headteacher, then this should be brought to the attention of the Chair of Governors immediately.

Should an allegation be made against the Chair of Governors, then this should be brought to the attention of the Chair of Trustees immediately.

Note: Where the term Headteacher is used through the remainder of this document this refers to the Chair of Governors / Trustees as appropriate.

If the Designated Safeguarding Lead and Headteacher identify the child has been harmed, that there may be an immediate risk of harm to a child or if the situation is an emergency, they should contact children's social care and as appropriate, the police, immediately.



There are two aspects to consider when an allegation of harm is made:

Looking after the welfare of the child: the Designated Safeguarding Lead is responsible for ensuring that the child is not at risk and referring cases of suspected abuse to the Local Authority Children's Social Care.

Investigating and supporting the person subject to the allegation: the Case Manager (normally the Headteacher) should contact the Local Authority Designated Officer (LADO) to discuss the nature, content and context of the allegation immediately and agree a course of action. Information gained from basic enquiries should be passed on in line with local procedures. An internal investigation must not take place, nor must the worker against whom the allegation has been made be notified of the concern, until approval to do so is given by the LADO.

The LADO may request that the Headteacher provides or obtains additional relevant information such as previous history, whether the child or their family have made similar allegations previously, and the employee's current contact with children. Where further enquiries are required to enable a decision about how to proceed, the LADO and the Headteacher will discuss how this will take place and by whom.

This initial sharing of information and evaluation may lead to a decision that no further action is to be taken; in which case this decision and the justification for it will be documented. The Headteacher with the LADO will agree what information should be put into writing to the individual(s) concerned and by whom and what action should follow both in respect of the individual and those who made the allegation. Even when no further action is taken the Headteacher should inform the member of staff that they will receive notification in writing.

The Headteacher should inform the accused member of staff about the allegation as soon as possible after consulting the LADO, providing as much information as possible and as agreed with the LADO. Where a strategy discussion is needed, or police or children's social care services need to be involved, the Headteacher should not take action until those agencies have been consulted and have agreed what information can be disclosed and when.

Supply staff

In some circumstances, such as supply staff who are provided by an Agency, we may have to consider an allegation against an individual who is not directly employed by the Trust. In these circumstances the Trust will fulfil its obligation to ensure that allegations are dealt with properly and in accordance with Keeping Children Safe in Education.

The Trust will not cease to use a member of supply staff due to safeguarding concerns without finding out the facts and liaising with the LADO and the Agency to determine a suitable outcome.

The Headteacher or the Designated Safeguarding Lead is responsible for contacting the Agency to discuss whether it is appropriate and necessary to suspend the supply staff member or if there are other options such as redeployment whilst an investigation is carried out.

Headteachers will take all reasonable steps to ensure that the Agency is fully involved and co-operates in any enquiries from the LADO, police and/or children's social services. In these situations, the school may be required to take the lead as agencies do not have direct access to children or other staff and so will not be able to collect the facts when an allegation is made.

Supply staff, whilst not employed by the Trust, are under the supervision, direction and control of the Trust when working in one of our schools. In accordance with Trust practice, supply staff should be advised to contact their trade union representative or a work colleague for support.

Schools will inform the agency of this process for managing allegations and invite relevant agency personnel to meetings in order to keep them up to date with information.

Governors and Trustees

If an allegation is made against a governor or trustee, local procedures will be followed. Where an allegation is substantiated, procedures should be followed to consider removal from office.



Suspension

The Headteacher should determine whether the circumstances warrant a member of staff being suspended from contact with children at the school or whether alternative arrangements can be put in place until the allegation is resolved.

Suspension should not be the default position, but if required it should be noted that suspension is a neutral act and does not imply that a decision has been made on the merit or otherwise of the allegations.

If the LADO, Police and Children's Social Care Services have no objections to the member of staff continuing to work during the investigation, the Headteacher should aim to avoid suspension.

Based on an assessment of risk, the following alternatives should be considered by the Headteacher before suspending a member of staff:

- redeployment within the school so that the member of staff does not have direct contact with the child or children concerned;
- providing an assistant to be present when the individual has contact with children;
- redeploying the member of staff to alternative work in the school so the individual does not have unsupervised access to children;
- moving the child or children to classes where they will not come into contact with the member of staff, making it clear that this is not a punishment and parents have been consulted; or
- temporarily redeploying the member of staff to another role in an alternative school within the Trust.

In coming to a decision, the Headteacher should consider the potential permanent professional reputational damage to employees that can result from suspension where an allegation is later found to be unfounded, unsubstantiated, malicious or false.

If suspension is considered necessary, the rationale and justification for this course of action will be agreed and recorded by the Headteacher and the LADO and should also include what alternatives to suspension have been considered and why they were rejected.

Where it is appropriate to suspend the employee, written confirmation will be dispatched to them within one working day providing as much detail as appropriate for the reasons for the suspension, confirming who their named support contact is and their contact details.

Duty of care

The Trust has a duty of care to employees and so will:

- manage and minimise the stress caused by the allegation in so far as possible;
- inform the individual as soon as possible, explaining the likely course of action, guided by the LADO, and the police where necessary;
- advise the individual to contact their trade union representative or a colleague for support;
- appoint a suitable, named representative to keep the individual informed about the process of the case;
- provide contact details for the Employee Assistance Programme;
- consider other sources of support as required;
- not prevent social contact with colleagues and friends during a period of suspension unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence;
- provide support, where it is decided on the conclusion of a case that the person who has been suspended can return to work and how that can best be facilitated.

Information to be provided to parents and carers

Parents or carers of a child or children involved should be told about the allegation as soon as possible if they do not already know of it.

However, where a strategy discussion is required, or police or children's social care services need to be involved, the Headteacher should not do so until those agencies have been consulted and have agreed what information can be disclosed to the parents or carers.

Parent or carers should also be kept informed about the progress of the case and told the outcome where there is not a criminal prosecution, including the outcome of any disciplinary process. The deliberations of a disciplinary



hearing, and the information taken into account in reaching a decision, will not be disclosed, but the parents or carers of the child should be told the outcome in confidence.

Investigations

In some cases, further enquiries will be needed to enable a decision to be made about how to proceed. If so, the Headteacher will discuss and agree with the LADO how and by whom the investigation will be undertaken. In straightforward cases, the investigation will normally be undertaken by a member of the Senior Leadership team, HR, or in special circumstances, by an independent investigator. In all cases an investigation report will be compiled.

The following definitions, as contained within Keeping Children Safe In Education, will be used when determining the outcome of allegation investigations:

The allegation is **Substantiated** which means that there is sufficient evidence to prove the allegation.

The allegation is **Malicious** which means that there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive or cause harm to the person subject of the allegation.

The allegation is **False** which means that there is sufficient evidence to disprove the allegation.

The allegation is **Unsubstantiated** which means that there is insufficient evidence to either prove or disprove the allegation. This term does not imply guilt or innocence.

The allegation is **Unfounded** which reflects cases where there is no evidence or proper basis which supports the allegation being made.

On receipt of the investigation report, the Headteacher will determine the next steps which can include no further action, or a disciplinary hearing being convened with the potential for dismissal. If a hearing is required, the Disciplinary Procedure will be followed.

Resignations

If the accused person resigns this will not prevent an allegation from being followed up and the procedure outlined in this document will continue regardless.

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 concerned refuses to cooperate with the process.

Settlement agreements

Settlement agreements will not be used in cases where the allegations indicated that the person is a risk or poses a risk of harm to children or deemed not suitable to work with children.

Confidentiality

The Trust will make every effort to maintain confidentiality and ward against unwanted publicity whilst an allegation is being investigated or considered.

The Trust complies with the reporting restrictions within the Education Act 2002 in that it will not provide any material that may lead to the identification of a member of staff who has been accused until the point that the accused person is charged with an offence or until the Secretary of State publishes information about an investigation or decision in a disciplinary case arising from the allegation or if the individual waives their right to anonymity.

Record keeping

Details of allegations that are found to have been malicious or false will be expunged from an individual's record, unless they consent for the retention of the information.

However, for all other allegations, it is important that the following information is kept on file of the person accused with the individual to be provided with a copy of the same:

- a clear and comprehensive summary of the allegation;
- details of how the allegation was followed up and resolved;



- a note of any action taken, and decisions reached and the outcome (as per the categories above);
- a declaration on whether the information will be referred to in any future reference

The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where future DBS Disclosures reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time.

Schools have an obligation to preserve records which contain information about allegations of sexual abuse for the Independent Inquiry into Child Sexual Abuse (IICSA) for the term of the inquiry.

All other records should be retained at least until the accused has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

References

Cases in which an allegation, or repeated allegations, have been determined to be false, unsubstantiated, unfounded or malicious will not be included in employer references.

Where allegations are found to be substantiated, factual information (not opinions) will be included in references to prospective employers.

Timescales

It is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation. All allegations should be investigated as a priority to avoid any delay.

The time taken to investigate and resolve individual cases depends on a variety of factors including the nature, seriousness and complexity of the allegation but most cases should be resolved within one month, and all but the most exceptional cases should be completed within 12 months.

For cases where it is clear immediately that the allegation is unsubstantiated or malicious, they should be resolved within one week.

Referral arrangements

If the allegation is substantiated and the employee is dismissed or resigns, the Headteacher will discuss with HR whether a referral should be made to the DBS for consideration of inclusion in the barred lists and to the TRA for consideration of prohibiting the employee from teaching.

The Trust has a legal requirement to make a referral to the DBS if it is believed that an individual has engaged in conduct that has harmed (or is likely to harm) a child, or if a person otherwise poses a risk of harm to a child.

Non recent allegations

Abuse can be reported no matter how long ago it happened.

Where an adult makes an allegation that they were abused as a child, the individual should be advised to report the allegation to the police.

Non recent allegations made by a child, should be reported to the LADO in accordance with local procedures.

Section 2. Concerns that do not meet the harm threshold (low level)

Low level concerns may arise in a number of ways or from a variety of sources.

A low level concern does not mean it is insignificant. It means that the behaviour towards a child does not meet the harm threshold.

Low level concerns about adults working within the Trust will be dealt with appropriately and promptly following the procedure set out in the Code of Conduct.

General Data Protection Regulation



All data within this policy will be processed in line with the requirements and protections set out in the UK General Data Protection Regulation and the Data Protection Act 2018.

