

## POLICY FOR MANAGING ALLEGATIONS AND CONCERNS

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### 1. Scope of this policy

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. Due regard will be given 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 2023.

This policy will also be used for all staff, volunteers and supply staff and contractors (see separate policy for contractors).

### 2. Low Level Concerns that do not meet the harm threshold

Concerns may arise in several ways and from a number of sources. For example: suspicion; complaint; or disclosure made by a child, parent or other adult within or outside of the organisation.

The Trust is committed to promoting an open and transparent culture in which all concerns about all adults working on behalf of the school/Trust (including employees, volunteers, governors, trustees, contractors and supply staff) share a collective responsibility to ensure that all concerns about adults working in or on behalf of the Trust are dealt with promptly and appropriately.

A low level safeguarding concern does not mean that it is insignificant, it means that the behaviour towards a child does not meet the harm thresholds set out in Keeping Children Safe in Education. A low level concern is any concern no matter how small, and even if no more than causing a sense of unease or a "nagging doubt" that an adult working in or on behalf of the school may have acted in a way that:

- Is inconsistent with the staff code of conduct, including inappropriate conduct outside of work; and
- Does not meet the allegations threshold it would still be good practice and necessary to make a referral to the LADO.

The concern should be shared with the Headteacher/DSL, recorded and dealt with appropriately. Ensuring that they are dealt with effectively should also protect those working in or on behalf of the Trust from potential false allegations or misunderstandings.

Examples of such behaviour could include:

- Being over friendly with children
- Having favourites
- Taking photographs of children on their mobile phone contrary to school/Trust policies
- Engaging with a child on a one-to-one basis in a secluded area or behind a closed door
- Humiliating children

Staff who are concerned about the conduct of a colleague or safeguarding practice within the school are undoubtedly placed in a very difficult situation. All staff must remember that the welfare of the child is paramount and staff should feel able to report all concerns about a colleague or the safeguarding practice within the school. The Trust's Managing Allegations and Concerns and Whistleblowing policies enable staff to raise concerns or allegations in confidence and for a sensitive enquiry to take place.

NSPCC whistleblowing helpline number 0800 028 0285 enables staff to raise concerns or allegations in confidence and for a sensitive enquiry to take place.

All concerns of poor practice or possible child abuse by colleagues should be reported to the Headteacher/DSL. Staff may also report their concerns directly to the LADO or the police if they believe direct reporting is necessary to secure action.

Records will be reviewed so that potential patterns of inappropriate, problematic or concerning behaviour can be identified and the appropriate course of action can be taken.

All low level concerns will be recorded in writing and retained until the individual leaves their employment. These records will be kept confidentially and held securely to comply with the Data Protection Act 2018 and UK General Data Protection Regulations (GDPR).

### **3. Responding to low-level concerns**

If the concern has been raised via a third party, the Headteacher should collect as much evidence as possible by speaking:

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

The information collected will help to categorise the type of behaviour and determine what further action may need to be taken and if the behaviour is consistent with the code of conduct, if the behaviour constitutes a low level concern or if there is a pattern. All of this needs to be recorded along with the rationale for their decision and action taken.

#### **3.1 Action on receipt of an allegation that may meet the harm threshold**

##### **Allegations against staff**

When an allegation is made against a member of staff, including supply staff, volunteers and contractors, set procedures must be followed (see Keeping Children Safe in Education Part 4 and this policy).

It is important to have a culture of openness and transparency and a consultation with the LADO. 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).

It is rare for a child to make an entirely false or malicious allegation, although misunderstandings and misinterpretations of events do happen. We recognise that a child may also make an allegation against an innocent party because they are too afraid to name the real perpetrator. However, if a child is found to continually make false allegations this may be a sign of mental health issues and a referral to services such as CAMHS (Child and Adolescent Mental Health) may be required.

Allegations against staff should be immediately reported to the Headteacher/DSL, in any event within 24 hours of becoming aware. 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. In the event of the Headteacher being absent the deputy is the DSL.

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

Allegations against the Headteacher should be reported to the Chair of Academy Council, Chair of Governors and CEO.

Should an allegation be made against the Chair of Governors, then this should be brought to the attention of the Chair of Trustees immediately. Where an allegation is substantiated, procedures should be followed to consider removal from office.

Staff may also report their concerns directly to Police or Designated Officer/LADO or NSPCC Whistle blowing helpline if they believe direct reporting is necessary to secure action.

The Headteacher should do an urgent initial consideration in order to establish if there is substance to the allegation, the Headteacher should not carry out any investigation until consultation with the LADO has taken place. Full and accurate records will be made at every stage.

Referrals must be made to the LADO within one working day. Case managers may then be invited to a meeting coordinated by the LADO.

Depending on outcomes of investigations it may be necessary to report these to the DBS/Teaching Regulation Agency as per guidance.

An uncomfortable fact is that some professionals do pose a serious risk to pupils and we must act on every allegation. However, staff who are the subject of an allegation have the right to have their case dealt with fairly, quickly and consistently and to be kept informed of its progress.

The full procedures for dealing with allegations against staff including supply staff, can be found in Keeping Children Safe in Education part 4.

**Staff, parents, carers and governors are reminded that publication of material that may lead to the identification of a teacher who is the subject of an allegation is prohibited by law. Publication includes verbal conversations or writing, including content placed on social media sites. We will communicate this to all parties.**

Safer Working Practice training is undertaken every 2 years to remind staff of the code of conduct and behaviour expectations along with refresher training/updates annually.

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. The Designated Safeguarding Lead is responsible for ensuring that the child is not at risk and refer cases of suspected abuse to the Local Authority Children's Social Care.

### **3.2 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.

## **4 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. In some cases, staff may be suspended where this is deemed to be the best way to ensure that children and themselves are protected. Staff will be advised to contact their trade union and will also be given access to a named representative.

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.

## 5 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.

## 6 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.

## 7 Investigations

In some cases, other than initial fact finding, further enquiries will be needed to enable a decision to be made about how to proceed. If so, the Headteacher/DSL will consult 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.

- **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. This should be done within one working day. 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.

### 7.1 Definitions

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.

## 8 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.

## 9 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.

## 10 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.

## **11 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. Full and accurate records will be made at every stage.

However, for all other allegations (including low level concerns), it is important that the following information is kept on file (within the HR office) of the person accused with the individual to be provided with a copy of the same:

- A clear and comprehensive summary of the allegation or low level concern to be recorded in writing;
- details of how the allegation/concern was followed up and resolved;
- a note of any action taken, and decisions reached and the outcome (as per the categories above);
- for low level concerns the name(s) of the individual sharing their concerns should be noted, if the individual(s) wishes to remain anonymous then this should be respected as far as reasonably possible;
- 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. These records will be reviewed by the DSL every academic year so that patterns can be identified and a record of these reviews will be made. 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.

## **12 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.

## **13 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.

#### **14 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 Teaching Regulation Agency (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.

#### **15 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.

#### **16 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.

#### **17 Document Management**

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<b>Date of issue:</b>	November 2021
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