



DEALING WITH ALLEGATIONS OF ABUSE AGAINST TEACHERS, OTHER STAFF AND VOLUNTEERS

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INTRODUCTION

This policy has been developed in line with its statutory guidance from the Department for Education (Keeping Children Safe in Education, September 2018). This means recipients must have regard to it when carrying out duties relating to handling allegations of abuse against teachers, other staff and volunteers.

KEY POINTS

- If an allegation is made against an employee or volunteer, the quick resolution of that allegation should be a clear priority to the benefit of all concerned. At any stage of consideration or investigation, all unnecessary delays should be eradicated.
- In response to an allegation staff suspension should not be the default option. An individual should only be suspended if there is no reasonable alternative. If suspension is deemed appropriate, the reasons and justification should be recorded by the academy and the individual notified of the reasons.
- Allegations that are found to have been malicious should be removed from personnel records and any that are false, unsubstantiated or malicious should not be referred to in employer references.
- Students that are found to have made malicious allegations are likely to have breached the academy's behaviour policies. The academy should therefore consider whether to apply an appropriate sanction, which could include temporary or permanent exclusion (as well as referral to the police if there are grounds for believing a criminal offence may have been committed).
- All allegations must be reported immediately, normally to the Executive Headteacher (Monkwearmouth) or Headteacher (Redby). If the Executive Headteacher or Headteacher is unavailable or the allegation concerns the Executive Headteacher then the allegation should be reported to the Chair of Governors. The Designated Officer (DO) employed by Together for Children is responsible for providing advice and monitoring cases. The Designated Officer for Sunderland is Danielle Rose (5613901) danielle.rose@togetherforchildren.org.uk.

DUTIES AS AN EMPLOYER AND EMPLOYEE

Employers have a duty of care to their employees. The Trust will ensure they provide effective support for anyone facing an allegation and will provide an employee with a named contact if they are suspended.

This policy sets out who in the Trust will manage cases of allegations that might indicate a person would pose a risk of harm if they continue to work in regular or close contact with children in their present position, or in any capacity. It should be used in respect of all cases in which it is alleged that a teacher or member of staff (including volunteers) in our academies 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 indicates he or she may pose a risk of harm to children.

Allegations against a teacher who is no longer teaching should be referred to the police. Historical allegations of abuse should also be referred to the police.

It is essential that any allegation of abuse made against a teacher or other member of staff or volunteer in a school is dealt with very quickly, in a fair and consistent way that provides effective protection for the child and at the same time supports the person who is the subject of the allegation.

INITIAL CONSIDERATIONS

The procedures for dealing with allegations need to be applied with common sense and judgement. Many cases may well either not meet the criteria set out above at all, or may do so without warranting consideration of a police investigation or enquiries by local authority children's services. In these cases local arrangements should be followed to resolve cases quickly and without delay.

Some rare allegations will be so serious as to require immediate intervention by the Children's Social Care Services and/or police. The designated officer should be informed of all allegations that come to the Trust's attention and appear to meet the criteria within one working day of the allegation being received so that he or she can consult police and Children's Social Care Services as appropriate.

The following definitions should be used when determining the outcome of allegation investigations:

- a. **Substantiated:** there is sufficient identifiable evidence to prove the allegation;
- b. **False:** there is sufficient evidence to disprove the allegation;
- c. **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive;
- d. **Unsubstantiated:** there is insufficient evidence to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence;
- e. **Unfounded:** there is no evidence or proper basis which supports the allegation being made. It may also indicate that the person making the allegation misinterpreted the incident or was mistaken about they saw or were not aware of all of the circumstances.

In the first instance, the executive headteacher (Monkwearmouth) or headteacher (Redby) or chair of governors where the executive headteacher is the subject of an allegation (case manager), should immediately discuss the allegation with the designated officer. The purpose of an initial discussion is for the designated officer and the case manager, to consider the nature, content and context of the allegation and agree a course of action. The designated officer may ask the case manager to provide or obtain any additional information which may be relevant, such as previous history, whether the child or their family have made similar allegations, and the individual's current contact with children. There may be situations where the case manager will want to involve the police immediately, for example if the person is deemed to be an immediate risk to children or there is evidence of a possible criminal offence. Where there is no such evidence, the case manager should discuss the allegations with the designated officer in order to help determine whether police involvement is necessary.

This initial sharing of information and evaluation may lead to a decision that no further action is to be taken in regard to the individual facing the allegation or concern, in which case this decision and a justification for it should be recorded, by both the case manager and the designated officer, and agreement reached as to what information should be put in writing to the individual concerned and by whom. The case manager should then consider with the designated officer what action should follow in respect of the individual and those who made the initial allegation, including what information can be shared with the individual at this stage.

The case manager should inform the accused person about the allegation as soon as possible after consulting the designated officer providing them with as much information as possible at the time. However, where a strategy discussion is needed, or police or children's social care services need to

be involved, the case manager should not do that until those agencies have been consulted, and have agreed what information can be disclosed to the person. The Trust must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children at the academy until the allegation or concern is resolved or whether alternative arrangements can be put in place until the allegation or concern is resolved. All options to avoid suspension should be considered prior to taking the decision to suspend. Please see further information on suspension.

If the allegation is not demonstrably false or unfounded, and there is cause to suspect a child is suffering or is likely to suffer significant harm, a strategy discussion should be convened in accordance with *Working Together to Safeguard Children 2018*. If the allegation is about physical contact, the strategy discussion or initial evaluation with the police should take account of the fact that teachers and other school staff are entitled to use reasonable force to control or restrain pupils in certain circumstances, including dealing with disruptive behaviour.

Where it is clear that an investigation by the police or children's social care services is unnecessary, or the strategy discussion or initial evaluation decides that is the case, the designated officer should discuss the next steps with the case manager. In those circumstances the options open to the academy depend on the nature and circumstances of the allegation and the evidence and information available. This will range from taking no further action to summary dismissal or a decision not to use the person's services in future. Suspension should not be the default position – an individual should only be suspended if there is no reasonable alternative.

In some such cases further enquiries will be needed to enable a decision about how to proceed. If so, the designated officer should discuss with the case manager how and by whom the investigation will be undertaken. In straightforward cases the investigation should normally be undertaken by a senior member of academy staff. However, in other circumstances, lack of appropriate resource within the trust, or the nature or complexity of the allegation will require an independent investigator.

Please note further advice and guidance is contained in the Trust Disciplinary Policy in respect of investigations. This includes the necessity to seek parental consent to interview pupils.

SUPPORTING THOSE INVOLVED

As an employer the trust has a duty of care to its employees. The trust will act to manage and minimise the stress inherent in the allegations and disciplinary process. Support for the individual is vital to fulfilling this duty. Individuals should be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action, unless there is an objection by Children's Social Care Services or the police. The individual should be advised to contact their trade union representative, if they have one, or a colleague for support. They should also be given access to welfare counselling and/or medical advice from Occupational Health.

The case manager should appoint a named representative to keep the person who is the subject of the allegation informed of the progress of the case and consider what other support is appropriate for the individual. Particular care needs to be taken when employees are suspended to ensure that they are kept informed of both the progress of their case and current work related issues. Social contact with colleagues and friends should not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

Parents or carers of the 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 case manager should not do so until those agencies have been consulted and have agreed what information can be disclosed to the parents/carers. They 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, cannot normally be disclosed, but the parents or carers of the child should be told the outcome in confidence**. The case manager should take advice in respect of the precise information that can be shared in all cases.

Parents and carers should also be made aware of the requirement to maintain confidentiality about any allegations made against employees whilst investigations are ongoing. If parents or carers wish to apply to the court to have reporting restrictions removed, they should be told to take legal advice.

In cases where a child may have suffered significant harm, or there may be a criminal prosecution, children's social care services, or the police as appropriate, should consider what support the child or children involved may need.

CONFIDENTIALITY

It is extremely important that when an allegation is made, the academy makes every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. The Education Act 2002 introduced reporting restrictions preventing the publication of any material that may lead to the identification of a teacher who has been accused by, or on behalf of, a student from the same school (where the identification would identify the teacher as the subject of the allegation). The reporting restrictions apply 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. The reporting restrictions are disapplied if the individual to whom the restrictions apply effectively waives their right to anonymity by going public themselves or by giving their written consent for another to do so or if a judge lifts restrictions in response to a request to do so. The provisions commenced on 1 October 2012.

The legislation imposing restrictions makes clear that publication of material that may lead to the identification of the teacher who is the subject of the allegation is prohibited. Publication includes any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public. This means that a parent who, for example, published details of the allegation on a social networking site would be in breach of the reporting restrictions (if what was published could lead to the identification of the teacher by members of the public).

In accordance with the Authorised Professional Practice published by the College of Policing in May 2017 the police will not normally provide any information to the press or media that might identify an individual who is under investigation, unless and until the person is charged with a criminal offence. (In exceptional cases where the police might depart from that rule, e.g. an appeal to trace a suspect, they must apply to the Magistrates Court to request reporting restrictions are lifted).

The case manager should take advice from the designated officer, police and Children's Social Care Services to agree the following:

- Who needs to know and, importantly, exactly what information can be shared;

** In deciding what information to disclose, careful consideration should be given to the provisions of the Data Protection Act 2018, the law of confidence and, where relevant, the Human Rights Act 1998

- How to manage speculation, leaks and gossip;
- What if any information can be reasonably given to the wider community to reduce speculation; and
- How to manage press interest if and when it should arise.

RESIGNATIONS AND ‘SETTLEMENT AGREEMENTS’

The fact that a person tenders his or her resignation, or ceases to provide their services, must not prevent an allegation being followed up in accordance with this guidance. A referral to the DBS must be made and consideration given to whether a referral to the TRA is appropriate if the criteria are met. If the accused person resigns or their services cease to be used and the criteria are met, it will not be appropriate to reach a settlement agreement. A settlement agreement that prevents the trust from making a DBS referral when the criteria are met would likely result in a criminal offence being committed as the trust would not be complying with its legal duty to make the referral.

It is important that every effort is 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. Wherever possible the person should be given a full opportunity to answer the allegation and make representations about it, but 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 even if that cannot be done or the person does not co-operate. 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 it is important to reach and record a conclusion wherever possible.

Settlement Agreements, by which a person agrees to resign if the school agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, should not be used in cases of refusal to cooperate or resignation before the persons notice period expires. Such an agreement will not prevent a thorough police investigation where that is appropriate.

RECORD KEEPING

Details of allegations that are found to have been malicious should be removed from personnel records. However, for all other allegations, it is important that a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, is kept on a person’s confidential personnel file, and a copy provided to the person concerned.

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 checks 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. The record should be retained at least until the person 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 was proven to be false, unsubstantiated or malicious should not be included in employer references. A history of repeated concerns or allegations which have all been found to be false, unsubstantiated or malicious should also not be included in any reference.

TIMESCALES

It is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation. All allegations must be investigated as a priority so as to avoid any delay. Target timescales are shown below. 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 these targets should be achieved in all but truly exceptional cases. It is expected that 80 per cent of cases should be resolved within one month, 90 per cent within three months, and all but the most exceptional cases should be completed within 12 months.

For those cases where it is clear immediately that the allegation is unfounded or malicious then it is expected that they should be resolved within one week.

Where the initial consideration decides that the allegation does not involve a possible criminal offence it will be for the employer to deal with it, although if there are concerns about child protection, the employer should discuss with the designated officer. In such cases, if the nature of the allegation does not require formal disciplinary action, the case manager should institute appropriate action within 3 working days. If a disciplinary hearing is required and can be held without further investigation, the hearing should be held within 15 working days.

OVERSIGHT AND MONITORING

The designated officer has overall responsibility for oversight of the procedures for dealing with allegations; for resolving any inter-agency issues, and for liaison with the Sunderland Safeguarding Children Board (SSCB) on the subject. The designated officer will provide advice and guidance to the case manager, in addition to liaising with the police and other agencies, and monitoring the progress of cases to ensure that they are dealt with as quickly as possible consistent with a thorough and fair process. Reviews should be conducted at fortnightly or monthly intervals depending on the complexity of the case.

Police forces should also identify officers who will be responsible for:

- liaising with the designated officer
- taking part in the strategy discussion or initial evaluation
- subsequently reviewing the progress of those cases in which there is a police investigation and
- sharing information on completion of the investigation or any prosecution.

If the strategy discussion or initial assessment decides that a police investigation is required, the police should also set a target date for reviewing the progress of the investigation and consulting the Crown Prosecution Service (CPS) about whether to: charge the individual; continue to investigate; or close the investigation. Wherever possible that review should take place no later than 4 weeks after the initial evaluation. Dates for subsequent reviews, ideally at fortnightly intervals, should be set at the meeting if the investigation continues.

SUSPENSION

The possible risk of harm to children posed by an accused person should be evaluated and managed in respect of the child(ren) involved in the allegations. In some rare cases that will require the academy considering suspending the person until the case is resolved. Suspension must not be an automatic response when an allegation is reported all options to avoid suspension should be considered prior to taking that step. If the academy is concerned about the welfare of other children in the community or the teacher's family, those concerns should be reported to the designated officer, childrens social care or the police but suspension is highly unlikely to be justified on the basis of such concerns alone.

Suspension should be considered only in a case where there is cause to suspect a child or other children at the academy is or are at risk of significant harm or the case is so serious that it might be grounds for dismissal. However, a person should not be suspended automatically, or without careful thought being given to the particular circumstances of the case. The case manager must consider carefully whether the circumstances of the case warrant a person being suspended from contact with children at the school until the allegation is resolved and must take advice from the HR & Business Manager and the designated officer.

In cases where the academy is made aware that the Secretary of State has made an interim prohibition order in respect of an individual at the academy immediate action should be taken to ensure the individual does not carry out work in contravention of the order ie pending the findings of the TRA investigation the individual must not carry out teaching work.

The case manager should also consider whether the result that would be achieved by immediate suspension could be obtained by alternative arrangements. In many cases an investigation can be resolved quickly and without the need for suspension. If the designated officer, police and children's social care have no objections to the member of staff continuing to work during the investigation, the case manager should be as inventive as possible to avoid suspension. Based on an assessment of risk, the following alternatives should be considered by the case manager before suspending a member of staff:

- redeployment within the trust so that the individual 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 to alternative work within the trust 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 a different location, for example to an alternative location within the trust.

These alternatives allow time for an informed decision regarding the suspension and possibly reduce the initial impact of the allegation. The case manager should consider the potential permanent professional reputational damage to employees that can result from suspension where an allegation is later found to be unsubstantiated or maliciously intended.

If immediate suspension is considered necessary, the rationale and justification for such a course of action should be agreed and recorded by both the case manager and the designated officer. This should also include what alternatives were considered and why they were rejected.

Where it has been deemed appropriate to suspend the person, written confirmation should be dispatched within one working day, giving as much detail as appropriate for the reasons for the suspension. It is not acceptable for an employer to leave a person who has been suspended without any support. The person should be informed at the point of their suspension who their named contact is within the trust and provided with their contact details.

Children's Social Care Services or the police cannot require a case manager to suspend a member of staff or a volunteer, although the trust should give appropriate weight to their advice. The power to suspend is vested in the trust who are the employers of our staff. However, where a strategy discussion or initial evaluation concludes that there should be enquiries by Children's Social Care Services and/or an investigation by the police, the designated officer should canvass police and Children's Social Care Services for views about whether the accused member of staff needs to be suspended from contact with children to inform the trust's consideration of suspension. Police involvement does not make it mandatory to suspend a member of staff, this decision should be taken on a case-by-case basis having undertaken a risk assessment.

INFORMATION SHARING

In a strategy discussion or the initial evaluation of the case, the agencies involved should share all relevant information they have about the person who is the subject of the allegation, and about the alleged victim.

Where the police are involved, wherever possible the case manager should ask the police to obtain consent from the individuals involved to share the statements and evidence for use in their disciplinary process. This should be done as their investigation proceeds and will enable the police to share relevant information without delay at the conclusion of their investigation or any court case.

Children's Social Care Services should adopt a similar procedure when making enquiries to determine whether the child or children named in the allegation are in need of protection or services, so that any information obtained in the course of those enquiries which is relevant to a disciplinary case can be passed to the school without delay.

Where the case manager conducts their own investigation, they must obtain parental consent from parents of the child or any other children involved before taking or using any statements in formal disciplinary cases.

ACTION FOLLOWING A CRIMINAL INVESTIGATION OR A PROSECUTION

The police or the Crown Prosecution Service (CPS) should inform the trust and designated officer immediately when a criminal investigation and any subsequent trial is complete, or if it is decided to close an investigation without charge, or not to continue to prosecute the case after person has been charged.

In those circumstances the designated officer should discuss with the case manager whether any further action, including disciplinary action, is appropriate and, if so, how to proceed. The information provided by the police and/or Children's Social Care Services should inform that decision. The options will depend on the circumstances of the case and the consideration will need to take account of the result of the police investigation or the trial, as well as the different standard of proof required in disciplinary and criminal proceedings.

ACTION ON CONCLUSION OF A CASE

If the allegation is substantiated and the person is dismissed or the trust ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the designated officer should discuss with the case manager and the HR & Business Manager whether a referral to the Disclosure and Barring List (DBS) for consideration of inclusion on the barred lists and in the case of teaching staff whether to refer the case to the TRA to consider prohibiting the individual from teaching.

There is a legal requirement for employers to make a referral to the DBS where they think that an individual has engaged in conduct that harmed (or is likely to harm) a child or if a person otherwise poses a risk of harm to a child. In such circumstances, the duty to refer an individual arises where an employer has removed the individual from relevant work with children or the person has chosen to cease relevant work in circumstances where they would have been removed had they not done so. The DBS will consider whether to bar the person from working in regulated activity, which will include work in schools and other educational establishments. Local authorities, schools, FE colleges and other bodies all have a statutory duty to make reports, and to provide relevant information to the DBS. Referrals should be made as soon as possible after the resignation or removal of the member of staff involved and within one month of ceasing to use the person's services. The HR & Business Manager will make the referral.

In cases where it is decided on the conclusion of the case that a person who has been suspended can return to work, the case manager should consider how best to facilitate that. Most people will benefit from some help and support to return to work after a very stressful experience. Depending on the individual's circumstances, a phased return and/or the provision of a mentor to provide assistance and support in the short term may be appropriate. The academy should also consider how the person's contact with the child or children who made the allegation can best be managed if they are still a student at the academy.

ACTION IN RESPECT OF MALICIOUS OR UNSUBSTANTIATED ALLEGATIONS

If an allegation is determined to be unsubstantiated or malicious, the designated officer should refer the matter to Children's Social Care Services 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 case manager should consider whether any disciplinary action is appropriate against the student who made it, or whether the police should be asked to consider whether any action might be appropriate against the person responsible, even if he or she was not a student.

LEARNING LESSONS

At the conclusion of a case in which an allegation is substantiated the designated officer should review the circumstances of the case with the case manager to determine whether there are any improvements to be made to the trust's procedures or practice to help prevent similar events in the future. This should include issues arising from the decision to suspend the member of staff, the duration of the suspension and whether or not suspension was justified. Lessons should also be learnt from the use of suspension when the individual is subsequently reinstated. The Designated Officer and case manager should consider how future investigations of a similar nature could be carried out without suspending the individual.

This policy was updated in September 2018 and will be reviewed every 2 years or earlier if necessary.

Signed  Executive Headteacher Date 9/10/18

Signed  Director Date 9/10/18

