



# Managing Allegations against Staff Policy

<b>Review Period:</b>	Two yearly
<b>Person Responsible For Policy:</b>	Chief Executive Officer
<b>Governing Committee:</b>	Trust Board
<b>Date of Trustees Approval:</b>	October 2018
<b>Date for Review:</b>	October 2020

**This policy should be read alongside the DfE guidance Keeping Children Safe in Education and the Local Safeguarding Children Board's policy and procedures.**

The Head of School is the designated case manager for allegations against all staff and volunteers.

A nominated governor (chair of governors) is the case manager for managing allegations against the Head of School.

The Local Authority Designated Officer in Liverpool is Ray Said ([ray.said@liverpool.gov.uk](mailto:ray.said@liverpool.gov.uk))

The purpose of this policy is to provide guidance to all staff and volunteers in relation to the processes for managing allegations against adults working with children.

### **Key principles**

- Any concerns about an adult's behaviour towards a child or concerns about someone's suitability to work with children, or behaviours that are inconsistent with the Trust's code of conduct and guidance for safer working practices for working with children must be reported without delay in order to protect children. The Trust will not delay in seeking advice from the Local Authority Designated Officer or making a referral to Children's Services or contacting the police.
- The Trust will work in partnership with other agencies to ensure any allegation is resolved in a timely way.
- The Trust is aware of its statutory responsibility to make a referral to the Disclosure and Barring Service and/or the National College for Teaching and Leadership when the outcome of a case requires this.
- In keeping with the DfE guidance Keeping Children Safe in Education any reference, including an agreed reference as part of a settlement agreement, will always include any substantiated allegations, safeguarding concerns and a statement about someone's suitability to work with young people.
- The person should be given full opportunity to respond to the allegation and to participate in any investigation. The DfE is clear that compromise agreements where the person resigns and leaves with an agreed reference and the employer agrees not to pursue disciplinary action must not be used in cases of refusal to co-operate or resignation before the person's notice period expires. Such an agreement will not prevent a thorough police investigation where that is appropriate. The Trust also has to investigate the matter in order to provide information to support any referral to the DBS or NCTL.
- Consideration will be given as to how best to support all parties.
- Careful consideration will be given to alternatives to suspending the member of staff.
- The Trust is aware of its responsibility to maintain confidentiality and abide by the Education Act 2011 which places reporting restrictions preventing the publication of any material that might lead to the identification of a teacher until the person is charged or reporting restrictions are lifted. The Trust should make parents aware of their responsibilities in respect

of confidentiality. Once the matter is concluded, careful consideration will be given to any lessons that can be learnt in particular induction, ongoing training, supervision, policies and procedures.

## Key procedures

- Any concerns about the behaviour of any adult working for the Trust towards a child should be brought to the attention of the Head of School and/or Designated Safeguarding Lead without delay. Concerns about the Head of School should be directed to the nominated governor (chair of governors).
- Initial consideration should consider if the person may have:
  - 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 would pose a risk of harm to children.

Equally initial consideration may determine the concerns do not meet the above criteria and do not warrant a police investigation or enquires by Children's Services. There may be clear evidence from the outset the allegation is false, malicious or unfounded.

- Consideration should be given to immediately protecting the child and the need to contact the police.
- The Local Authority Designated Officer is the linchpin in the process and should be contacted without delay to discuss allegations against staff and volunteers. The L.A.D.O. will hold a strategy discussion with police and relevant agencies. The strategy discussion and subsequent strategy meetings will consider:
  - the case for suspension or alternatives to suspension
  - any investigation undertaken by police
  - any assessment being undertaken by Children's Services
  - the basis for when the employer can begin a disciplinary investigation
  - managing, sharing information and confidentiality issues
  - well-being and support needed for all parties
- All referrals to Children's Service should be made drawing upon the L.A.D.O. referral form.
- The Case Manager should seek advice from their HR Provider and the Senior School Improvement Officer for Safeguarding.
- The L.A.D.O. will advise if the parents and member of staff can be informed of the allegation and exactly what information can be shared.
- At the point at which the member of staff is notified of the allegation they should be given information about the Managing Allegations Against Adults and Volunteers procedures and also a nominated member of staff to support them. They should be advised to seek Trade Union support and consideration should be given to their wellbeing and continued support. They should be given guidance about the process (see Appendix 1)
- The L.A.D.O. will advise how to manage speculation, leaks and gossip and whether it would be prudent to contact the Local Authority Press Office, and any information which might be reasonably given to the community to reduce speculation. In line with Keeping Children Safe in

Education, staff and the child's family will be advised about the legislation on imposing restrictions which makes clear that the 'publication' of material that may lead to the identification of the teacher who is the subject of the allegation is prohibited.

- The Trust will only begin a disciplinary investigation when advised by the L.A.D.O. and police that these processes can begin.
- Suspension is always a neutral act and should not be an automatic response. The decision to suspend a member of staff is the employer's only. However, the Trust will need to draw upon the advice of the L.A.D.O. and Police and, in keeping with the DFE guidance, record the reasons why suspension was chosen over other alternatives.
- The case manager (Head of School or nominated governor) will record all actions, discussions and decisions taken in respect of the allegation. They will need to attend strategy meetings chaired by the L.A.D.O. They may wish to be accompanied by their HR Provider.
- The DFE sets out the following definitions which should be used when determining the outcome of allegation investigations:
  - **Substantiated:** there is sufficient evidence to prove the allegation;
  - **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive;
  - **False:** there is sufficient evidence to disprove the allegation;
  - **Unsubstantiated:** there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

The DFE also state:

*'Schools may wish to use the additional definition of 'unfounded' to reflect cases where there is no evidence or proper basis which supports the allegation being made. It might also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively they may not have been aware of all the circumstances.'*

- The Trust will only include in references substantiated allegations.
- The Trust will retain information about substantiated, false, unfounded and unsubstantiated allegations on personnel files.
- The record of the allegation will be retained until the member of staff's normal retirement age or for a period of ten years from the date of the allegation if that is longer.
- The Trust will consider what support the member of staff, child and family need throughout the process. In cases of malicious allegations, the Trust will consider whether disciplinary action is appropriate against the child or a referral to the police or Children's Services is required.
- On conclusion of the case the member of the staff will be given a copy of the outcome of the investigation and, where required, supported to return to work. The Trust has a legal duty to refer to the DBS in line with Keeping Children Safe in Education. The Trust will not enter into compromise/settlement agreements if a member of staff faces an allegation against them and the agreement prevents sharing concerns about someone's suitability to work with children and/or the member of staff refuses to cooperate with the investigation (refer to detail of DFE guidance). The Trust would also still need to conclude its

investigation and when required refer to the DBS for consideration of 'barring from working with children'.

- The Trust has a responsibility to refer to the Secretary of State (National College for Teaching and Leadership) any teacher because of serious misconduct in line with Keeping Children Safe in Education.
- Consideration should also be given to how practices or procedures should be reviewed to help prevent similar events in the future, including the decision to suspend and the length of suspension.

## Summary managing allegations against staff and volunteers procedures

If a member of staff or volunteer has a concern about the behaviour of another adult working in the setting, then they should share this concern **without delay** with either:

- The Head of School (**Case Manager** for allegations against staff) (If the Head of School is unavailable: Assistant Head of School or Designated Safeguarding Lead)
- The Nominated Governor (The Chair of Governors is often the nominated **Case Manager** for allegations against the Head of School)

Rarely a member of staff may need to contact Children's Services or the Local Authority Designated Officer directly or whistle-blow (NSPCC helpline 0800 028 0285 [help@nspcc.org.uk](mailto:help@nspcc.org.uk))

The Case Manager will then consider the alleged behaviour drawing upon Local Safeguarding Childrens Board Procedures and the DFE guidance Keeping Children Safe in Education. Did they:

- act in a way that has harmed a child, or may have harmed a child;
- possibly commit a criminal offence against or related to a child; or
- behave towards a child or children in a way that indicates he or she would pose a risk of harm to children

Consideration should always be given to the need to immediately protect a child or children and contacting Children's Services and/or Police **without delay**.

Children's Services should be contacted **without delay** to make a referral that will be forwarded to the Local Authority Designated Officer (A L.A.D.O. referral form should be completed). Contact your HR Advisor.

The Local Authority Designated Officer (L.A.D.O.) can be contacted by the Case Manager for guidance. You can also discuss your concerns with HR Advisor or Senior School Improvement Officer.

A referral to Children's Services is **not** required but consideration should be given to a disciplinary investigation. Contact your HR Advisor

The L.A.D.O will have a strategy discussion with police (and other agencies). This may lead to a strategy meeting chaired by the L.A.D.O typically involving the case manager (and HR representative), Police and a Social Worker. The strategy discussion or strategy meeting will include a discussion about:

- the case for suspension or alternatives to suspension
- any investigation undertaken by police
- any assessment being undertaken by Children's Services
- the basis for when the employer can begin a disciplinary investigation
- managing, sharing information and confidentiality issues
- well-being and support needed for all parties

Consideration given to:

- Supporting all parties
- Record keeping
- Outcome letter to member of staff
- Referral to DBS
- Referral to NCTL
- Learning lessons to improve practice
- Feedback to the complainant (data protection consideration)

## Appendix I

### **A guide for a member of Trust staff subject to an allegation that has been referred to the Local Authority Designated Officer for managing allegations against adults working with children**

Any allegation is likely to cause anxiety and concern. This brief guide is to provide you with information if you are subject to an allegation. You can request a copy of the Trust's Managing Allegations Against Staff procedures and you can also refer to part 4 of the DFE guidance Keeping Children Safe in Education. In addition, you can seek advice from your own union and refer to the Local Safeguarding Children Board's procedures.

#### **What happens when an allegation is made?**

The case manager in school (Head of School) will consider whether the allegation needs to be referred to the police and/or children's services because you may have:

- 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
- behaved towards a child or children in a way that indicates you would pose a risk of harm to children

If from the outset there is evidence to suggest the allegation is unfounded, false or malicious then the Head of School will inform you that no further action will be taken and they will provide support to you. If the above criteria have not been met the Trust may still need to consider whether your actions or behaviour warrant further disciplinary consideration.

However, when the above criteria have been met the Head of School will need to refer the allegation to the Local Authority Designated Officer for consideration by children's services and police. A strategy discussion and/or meeting will then take place to determine when you can be told about the allegation and what information you can be given. The strategy meeting will also consider any other children with whom you have significant contact, including your own children. It will also consider whether you need to be suspended from working with children. The decision to suspend you is your employer's decision but they will need to take account of police and children's services views. Alternatives to suspension should always be considered, drawing upon DFE guidance. If you are suspended, in line with your Trust's disciplinary policy, you will be invited to a meeting to set out the suspension. However, the police and children's services may have advised your Trust that they are unable to tell you the details of the allegation at this meeting.

Although you will not be able to discuss the allegation with members of the Trust community, a nominated member of staff will be appointed to liaise with you. They will keep you informed as to the progress of your case. You may be offered counselling services and/or support from occupational health. You should always contact your GP if you feel your health is being affected. You will be advised about the responsibilities of all parties in respect of confidentiality. You should seek advice from your union or professional body from the outset.

If police and children's services decide to take no further action your Trust may still need to undertake a disciplinary investigation.

Your Trust are not able to agree to any reference that does not include any substantiated allegations or comment on your suitability to work with children or any safeguarding concerns. The Trust will always need to conclude its investigation and even if you choose to resign you will be invited to participate in the investigation. The DFE statutory guidance makes it clear the circumstances in which the Trust will not be able to enter into settlement/compromise agreement.

Your Trust may have a statutory responsibility to make a referral to the Disclosure and Barring Service and/or National College for Teaching and Learning.