

## Allegations Against Staff

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Owner	Safeguarding Team
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### Introduction

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

Airedale Infant School 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, the member of the senior leadership team dealing with an allegation must maintain an open mind, ensure that investigations are thorough and are not subject to unnecessary delay.

Whilst the school recognises the welfare of the pupils 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 school 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 school's complaints procedure.

This policy is compliant with Keeping Children Safe in Education (KCSIE).

This procedure will also be used for volunteers, the Academy Council and supply staff.

### Receipt of an allegation

Any allegation of abuse of a pupil by a member of staff must be reported to the Designated Safeguarding Lead (DSL)

Should the initial allegation first be made to any other member of staff they must request the person raising the allegation to report it 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 Chair of the Academy Council immediately.

Should the Designated Safeguarding Lead (or in the case of an allegation against the DSL/Head Teacher), the Chair of the Academy Council agree that the allegation raises a concern that a member of staff (i.e. a teacher, support staff member, member of the senior leadership team) or a volunteer) has:

- behaved in a way that has harmed a pupil, or may have harmed a pupil
- possibly committed a criminal offence against or related to a pupil
- behaved towards a pupil in a way that indicated they would pose a risk of harm to a child
- behaved or may have behaved in a way that indicates they may not be suitable to work with children and young people the Head Teacher should report the allegation to the Local Authority Designated Officer (LADO) immediately.

The School will not investigate the allegation at this stage.

**Note:** Where the term Head Teacher is used through the remainder of this document this refers to the Chair of the Academy Council in the case of an allegation against the Head Teacher

### **Initial Review**

An initial discussion will take place between the Head Teacher and the LADO to consider the nature, content and context of the allegation and agree a course of action.

The LADO may request that the Head Teacher provides or obtains additional relevant information such as previous history including previous employment, whether the pupil or their family have made similar allegations previously, and the member of staff's current contact with the pupil. The Head Teacher will liaise with the HR Manager to ascertain all personal staff data.

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 and records retained.
- The Head Teacher 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.

The Head Teacher 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, regardless of the decision as to whether further action will be taken or not. However, where a strategy discussion is needed, or police or children's social care services need to be involved, the Head Teacher should not do so until those agencies have been consulted and have agreed what information can be disclosed. The Head Teacher will be supported by the HR Manager where a meeting with the accused member of staff takes place.

Even when no further action is taken the Head Teacher should inform the member of staff that they will receive notification in writing and when this will happen.

### **Suspension from Duty**

The Head Teacher should determine whether the circumstances warrant a member of staff being suspended from contact with pupils or whether alternative arrangements can be put in place until the allegation is resolved. *Suspension should not be the default position* and 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 Head Teacher should aim to avoid suspension.

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

- redeployment within the school so that the member of staff does not have direct contact with the pupil or pupils concerned.
- providing an additional member of staff to be present when the individual has contact with the pupil.
- redeploying the member of staff to alternative work in the School so the individual does not have unsupervised access to pupils.
- moving the pupil or pupils 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.
- temporarily redeploying the member of staff to another role in an alternative school within the trust.

If suspension is considered necessary, the rationale and justification for this course of action will be agreed and recorded by the Head Teacher 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 member of staff, written confirmation will be sent to them within one working day providing as much detail as appropriate for the reasons for the suspension confirming who their named contact is and their contact details. This letter

will be provided by the HR Manager, in consultation with the Head Teacher, and a copy retained on the employee's HR file.

### **Supply Staff**

In some circumstances, such as supply staff who are provided by an Agency, the school may have to consider an allegation against an individual who is not directly employed by the school or Trust.

Whilst the school is not the employer of supply staff, we will still fulfil our obligation to ensure that allegations are dealt with properly and in accordance with statutory guidance.

The school will not cease to use a member of supply staff due to safeguarding concerns without finding out the facts and liaising with the local authority designated officer (LADO) and the Agency to determine a suitable outcome.

The Head Teacher 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.

The Head Teacher 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 pupils 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 school, are under the supervision, direction and control of the school leadership team when working within school. In accordance with school practice, supply staff should be advised to contact their trade union representative or a work colleague for support.

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

### **Investigations**

In some cases, further enquiries will be needed to enable a decision to be made about how to proceed. If so, the Head Teacher 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 (SLT). In more complex cases, or as a result of a lack of appropriate resource or due to the nature of the allegation, it may be investigated by the school's HR Manager 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 (KCSIE) guidance, 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.
- 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 Head Teacher will consult the LADO and they will collectively determine whether a disciplinary hearing is needed within two working days of receiving the report.

If a hearing is required the Head Teacher will consult with the HR Manager and the hearing should be held within 10 working days' and in any event providing the member of staff with 5 working days' notice.

### **Supporting members of staff**

The member of staff who is the subject of the allegation will be kept informed of the progress of the case and consideration will be given to what other support is appropriate. The member of staff will have a named contact within the school to support them, be provided with contact details for the Employee Assistance Programme via School's Advisory Service (SAS) and reminded to contact their trade union. Such support will continue where required by the employee once the process has concluded.

Social contact with colleagues and friends will not be prevented 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. Where there is evidence of a prejudicial nature the Head Teacher will liaise with the School's HR Manager to communicate any new expectations to the member of staff.

### **Information to be provided to parents and carers**

Parents or carers of a pupil or pupils 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 Head Teacher 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 considered in reaching a decision, will not be disclosed, but the parents or carers of the pupil should be told the outcome in confidence.

### **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 the pupil, including any in which the person concerned refuses to cooperate with the process.

### **Settlement Agreements**

Settlement agreements will not be used in cases of allegations of abuse.

### **Confidentiality**

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

The school 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 will be expunged from an employee's record. However, for all other allegations 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, must be retained on the confidential HR file of the member of staff and they will be provided with a copy of the same.

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.

This record will 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**

In cases in which an allegation was proven to be false, unsubstantiated, unfounded or malicious it will not be included in employer references.

Where allegations are found to be substantiated, this will be included in references.

## **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 Head Teacher will discuss with the school's HR Manager whether a referral to the DBS for consideration of inclusion in the barred lists and to the TRA for consideration of prohibiting the employee from teaching.

The School 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 pupil, or if a person otherwise poses a risk of harm to a pupil.

## **General Data Protection Regulation**

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

## APPENDIX 1

### **Wakefield Local Authority Designated Officer (LADO) & Key Contacts Action following Allegations/Concern Against Staff and Volunteers in the Children's Workforce**

