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Statement of Procedures for Dealing with Allegations of Abuse Against Staff

This policy was adopted on 24th April 2015

The policy is to be reviewed annually

Headteacher: Sharon Yardley

Chair of Local Governing Body: Rebecca Scott-Saunders

This is a statutory policy based on guidance from the Department for Education and we will have regard to it when carrying out duties relating to handling allegations against teachers and other staff.

WHAT LEGISLATION DOES THIS GUIDANCE RELATE TO?

- The Children Act 1989 and 2004
- Education Act 2002
- The Education (Health Standards) (England) Regulations 2003
- The School Staffing (England) Regulations 2009 as amended by SI 2012/1740 and SI 2013/1940
- The Education (Independent School Standards) (England) Regulations 2010 as amended by SI 2012/2962
- The Education (Non-Maintained Special Schools) (England) Regulations 2011
- Safeguarding Vulnerable Groups Act 2006
- Protection of Freedoms Act 2012
- Equality Act 2010
- The Common Law Duty of Care
- The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, as amended

Our vision is to 'Rise above the Ordinary', inspired by our faith in Christ and in fellowship with our parents/carers, churches and communities.

We develop and nurture a strong school fellowship based on the understanding that each individual is equal and valuable in the eyes of God. Through this fellowship we encourage students to care for others and their surroundings.

KEY POINTS

If an allegation is made against a teacher or other member of staff the quick resolution of that allegation will be a clear priority to the benefit of all concerned.

In response to an allegation all other options will be considered before suspending a member of staff: suspension will not be the default option. An individual will be suspended only if there is no reasonable alternative. If suspension is deemed appropriate, the reasons and justification will be recorded by the employer and the individual notified of the reasons.

Allegations that are found to be malicious will be removed from personnel records; and any that are unsubstantiated, are unfounded or malicious will not be referred to in employer references.

Students that are found to have made malicious allegations are likely to have breached school behaviour policies. The school will 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 will be reported immediately, to the headteacher, or to the assistant headteacher in the absence of the headteacher. In cases where the headteacher is the subject of the allegation or concern, reports will be made to the chair of governors. The local authority designated officer (LADO) responsible for providing advice and monitoring cases can be contacted on 01628 683194.

DUTIES AS AN EMPLOYER AND EMPLOYEE

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

This policy is about managing cases of allegations. It will be used in respect of all cases in which it is alleged that a member of staff (including volunteers) has:

- a. behaved in a way that has harmed a child, or may have harmed a child;
- b. possibly committed a criminal offence against or related to a child; or

c. behaved towards a child or children in a way that indicates he or she would pose a risk of harm if they work regularly or closely with children.

INITIAL CONSIDERATIONS

Where cases either do not meet the criteria set out above, or may do so without warranting consideration of either a police investigation or enquiries by local authority children's social care services, we will seek to resolve these cases, without delay.

Some rare allegations will be so serious they require immediate intervention by children's social care services and/or police. The LADO will be informed of all allegations that come to a school's attention and appear to meet the criteria so they can consult police and children's social care services as appropriate.

The following definitions will 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.

In the first instance, the headteacher (the 'case manager') will immediately discuss the allegation with the LADO to consider the nature, content and context of the allegation and agree a course of action.

Where a decision that no further action is to be taken in regard to the individual facing the allegation or concern; this decision and a justification for it will be recorded by both the case manager and the LADO, and agreement reached on what information will be put in writing to the individual concerned and by whom. The case manager will then consider with the LADO what action will follow both in respect of the individual and those who made the initial allegation.

The case manager will inform the accused person about the allegation as soon as possible after consulting the LADO. The case manager will provide them with as much information as possible at that time. However, where a strategy discussion is needed, or police or children's social care services need to be involved, the case manager will not do that until those agencies have been consulted, and have agreed what information can be disclosed to the accused. The Local Governing body on behalf of ODST the Employer will consider carefully whether the circumstances of a case warrant a person being suspended from contact with children at the school or whether alternative arrangements can be put in place until the allegation or concern is resolved. All options to avoid suspension will be considered prior to taking that step. (Please see further information on suspension below).

If there is cause to suspect a child is suffering or is likely to suffer significant harm, a strategy discussion will be convened in accordance with *Working Together to Safeguard Children*. If the allegation is about physical contact, the strategy discussion or initial evaluation with the police will take into account that teachers and other school staff are entitled to use reasonable force to control or restrain students 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 LADO will discuss the next steps with the case manager. In those circumstances, the options open to the school depend on the nature and circumstances of the allegation and the evidence and information available. This will range from taking no further action to dismissal or a decision not to use the person's services in future. Suspension will not be the default position: an individual will be suspended only if there is no reasonable alternative.

In some cases, further enquiries will be needed to enable a decision about how to proceed. If so, the LADO should discuss with the case manager how and by whom the investigation will be undertaken. In straightforward cases, the investigation will normally be undertaken by a senior member of the school.

However, in other circumstances, such as lack of appropriate resource within the school, or the nature or complexity of the allegation will require an independent investigator.

SUPPORTING THOSE INVOLVED

The Local Governing body on behalf of ODST have a duty of care to their employees. They will act to manage and minimise the stress inherent in the allegations process. Support for the individual is key to fulfilling this duty. Individuals will 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 the children's social care services or the police. The individual will be advised to contact their trade union representative, if they have one, or a colleague for support. They will also be given access to welfare counselling or medical advice where this is provided by the employer.

The case manager will 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 will 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 will 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 a child or children involved will 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 will 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 will 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 outcomes in confidence. Parents and carers will also be made aware of the prohibition on reporting or publishing allegations about teachers in section 141F of the Education Act 2002 (see below). If parents or carers wish to apply to the court to have reporting restrictions removed, they will be told to seek legal advice.

CONFIDENTIALITY

We will make every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. The Education Act 2011 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 that 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 also cease to apply 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 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).

The case manager will take advice from the LADO, police and children's social care services to agree the following:

- who needs to know and, importantly, exactly what information can be shared;
- 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 will arise.

RESIGNATIONS AND ‘SETTLEMENT/COMPROMISE AGREEMENTS’

If the accused person resigns, or ceases to provide their services, this will not prevent an allegation being followed up in accordance with this guidance. **A referral to the DBS must be made, 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/compromise agreement. A settlement/compromise agreement which prevents the school from making a DBS referral when the criteria are met would likely result in a criminal offence being committed as the school or college would not be complying with its legal duty to make the referral.

The process of recording the allegation and any supporting evidence, and reaching a judgement about whether it can be substantiated on the basis of all the information available, will continue even if that cannot be done or the accused does not cooperate. We will reach and record a conclusion wherever possible. Settlements/compromise agreements will not be used in these cases.

RECORD KEEPING

Details of allegations that are found to have been malicious will be removed from personnel records. 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, will be kept on the confidential personnel file of the accused, and a copy provided to the person concerned.

The 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

Cases in which an allegation was proven to be false, unsubstantiated, unfounded or malicious will not be included in employer references. A history of repeated concerns or allegations which have all been found to be unsubstantiated, malicious etc. will 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 to avoid any delay. It is expected that 80 per cent of cases will be resolved within one month, 90 per cent within three months, and all but the most exceptional cases will be completed within 12 months.

For those cases where it is clear immediately that the allegation is unfounded or malicious, they will 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 Governing body to deal with it, although if there are concerns about child protection, the employer will discuss with the LADO. In such cases, if the nature of the allegation does not require formal disciplinary action, the Governing Body will institute appropriate action within three working days. If a disciplinary hearing is required and can be held without further investigation, the hearing will be held within 15 working days.

OVERSIGHT AND MONITORING

The LADO has overall responsibility for oversight of the procedures for dealing with allegations. The LADO 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 will be conducted at fortnightly or monthly intervals, depending on the complexity of the case.

SUSPENSION

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

Suspension will be considered only in a case where there is cause to suspect a child or other children at the school is at risk of harm or the case is so serious that it might be grounds for dismissal. However, a person will not be suspended automatically: the case manager must consider carefully whether the circumstances warrant suspension from contact with children at the school or until the allegation is resolved, and may wish to seek advice from their personnel adviser and the LADO. In cases where the school is made aware that the Secretary of State has made an interim prohibition order in respect of an individual at the school or college it will be necessary to immediately suspend that person from teaching pending the findings of the NCTL's investigation.

The case manager will 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 LADO, police and children's social care services have no objections to the member of staff continuing to work during the investigation, the case manager will be as inventive as possible to avoid suspension. Based on assessment of risk, the following alternatives will be considered by the case manager before suspending a member of staff:

- redeployment within the school or college 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 in the school or college 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 school or work for the academy trust.

The case manager will consider the potential permanent professional reputational damage to employees that can result from suspension where an allegation is later found to be unsubstantiated, unfounded or maliciously intended.

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

Where it has been deemed appropriate to suspend the person, written confirmation will be dispatched within one working day, giving as much detail as appropriate for the reasons for the suspension. The person will be informed at the point of their suspension who their named contact is within the organisation and provided with their contact details.

Children's social care services or the police cannot require the case manager to suspend a member of staff or a volunteer, although the case manager will give appropriate weight to their advice. The power to suspend is vested in the Local Governing body on behalf of ODST, who are the employers of staff at the school. However, where a strategy discussion or initial evaluation concludes that there will be enquiries by the children's social care services and/or an investigation by the police, the LADO will 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 in order to inform the school's consideration of suspension. Police involvement does not make it mandatory to suspend a member of staff; this decision will 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 will 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 employer will ask the police to obtain consent from the individuals involved to share their statements and evidence for use in the employer disciplinary process. This will 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 will 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 employer without delay.

ACTION FOLLOWING A CRIMINAL INVESTIGATION OR A PROSECUTION

The police will inform the employer and LADO 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 LADO will 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 will inform that decision. The options will depend on the circumstances of the case and the consideration will need to take into account 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 employer ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the LADO will discuss with the case manager and their personnel adviser whether the school will decide to make a referral to the DBS for consideration of inclusion on the barred lists; and in the case of a member of teaching staff whether to refer the matter to the National College for Teaching and Leadership (NCTL) to consider prohibiting the individual from teaching. NB: **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**

Where it is decided on the conclusion of a case that a person who has been suspended can return to work, the case manager will consider how best to facilitate that. Most people will benefit from some help and support to return to work after a 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 case manager will 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 school.

LEARNING LESSONS

At the conclusion of a case in which an allegation is substantiated, the LADO should review the circumstances of the case with the case manager to determine whether there are any improvements to be made to the school's procedures or practice to help prevent similar events in the future. This will 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 will also be learnt from the use of suspension when the individual is subsequently reinstated. The LADO and case manager will consider how future investigations of a similar nature could be carried out without suspending the individual.

ACTION IN RESPECT OF UNSUBSTANTIATED OR MALICIOUS ALLEGATIONS

If an allegation is determined to be unsubstantiated or malicious, the LADO should refer the matter to the children's social care services to determine whether the child concerned is in need of services, or may have been abused by someone else. If an allegation is shown to be deliberately invented or malicious, the headteacher, will consider whether any disciplinary action is appropriate against the student who made it; or whether the police will be asked to consider if action might be appropriate against the person responsible, even if he or she was not a student.

FURTHER INFORMATION

The Crown Prosecution Service published guidance for the police on harassment under the Protection from Harassment Act 1997. This can be found at http://www.cps.gov.uk/legal/s_to_u/stalking_and_harassment/index.html