



"I am able to do all things by the one who strengthens me" - Phillipians 3:14

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ALLEGATIONS AGAINST STAFF

1. Introduction

These procedures will be applied when there is an allegation or concerns that any person who works with children, in connection with his/her employment or voluntary activity 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;
- Behaved in a way that indicates s/he would pose a risk of harm if they work regularly or closely with children.

We have mechanisms in place to identify patterns or complaints or concerns raised about a member of staff which taken together raise suspicions of harm and therefore warrant referral.

These behaviours will be considered within the context of the four categories of abuse i.e. physical, sexual and emotional abuse and neglect, and include concerns relating to conduct at or outside work, and inappropriate relationships between members of staff and children or young people. For example:

- Having a sexual relationship with a child under 18 if in a position of trust (defined in Section 21 Sexual Offences Act 2003) in respect of that child (even if consensual) - see Sections 16-19 Sexual Offences Act 2003);
- 'Grooming' i.e. meeting a child under the age of 16 with intent to commit a relevant offence (see s15 Sexual Offences Act 2003);
- Other 'grooming' behaviour giving rise to concerns of a broader child protection nature e.g. inappropriate text/email messages or images, gifts, socialising;
- Possession of indecent photographs/pseudo-photographs of children;
- Inappropriate behaviour towards children and/or conduct (i.e. social media, domestic abuse).

The Local Authority Designated Officer (LADO) is available for advice and support and this does not necessarily mean all discussions will lead to a LADO referral or process.

There will be a clear distinction between an allegation, a concern about the quality of care or practice and a complaint. We also have clear whistle blowing procedures and these will be referenced in staff training, codes of conduct and culture.

A number of other school policies may also be relevant to the handling of any allegation of harm to a child made against a member of staff. These include:

- Disciplinary Policy
- Child Protection/Safeguarding Policy
- Confidential Reporting Code (whistleblowing policy)
- Intimate and Personal Care
- Physical Intervention Policy
- Acceptable Use of Internet & Electronic Communication

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- Recruitment & Selection Policy
- Safe Working Practice
- School Complaints Procedure
- Continuous Professional Development (to ensure relevant training is kept up to date)

2. Roles and Responsibilities

Sarah Briggs (Headteacher) has overall responsibility for:

- Ensuring that the school deals with allegations in accordance with these procedures;
- Resolving any inter-agency issues;
- Liaising with the DSCB on the subject.

We have clear policies in place setting out the process, including timescales, for investigation and what support/advice is available to those individuals about whom allegations have been made.

- Allegations or concerns should be reported to Sarah Briggs.
- In the absence of Sarah Briggs allegations or concerns should be reported to Helen Fenlon.
- The Chair of Governors is the person designated to receive any allegation made against the Headteacher and should this not be possible for any reason, the report should be made directly to the LADO.

The Detective Inspector from the Police Central Referral Unit (CRU) will:

- Have a strategic oversight of the local Police arrangements for managing allegations against staff and volunteers;
- Liaise with DSCB on the issue;
- Ensure compliance.

The Police Central Referral Unit should designate a detective sergeant(s) to:

- Liaise with the LADO;
- Take part in strategy discussions;
- Create a referral and determine if a crime is to be recorded; where a child alleges assault and has an injury, an alleged crime will always be recorded;
- Review the progress of the cases in which there is a Police investigation;
- Share information on the completion of an investigation or related prosecution.

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2.1 Initial Considerations

The first priority must be to ensure the immediate safety of the child and other children affected, or in contact with the individual (including their own children). In a residential setting, it will be appropriate to consider what supervising arrangements are required to safeguard the child. Some allegations may be so serious they require immediate intervention by Police and/or Social Care. In these situations we will need to involve the Police (for example if the person is deemed to be an immediate risk to children or there is evidence of a criminal offence) and/or Children's Social Care where there are immediate Child Protection concerns e.g. where a child has been injured. Where there is no such evidence, we will discuss the allegations with the LADO in order to help determine whether Police and/or Social Care involvement is necessary.

We will not ask the employee any questions that will interfere with any criminal investigation until it has been agreed by LADO and Police.

We will immediately complete the LADO Referral Form (see **Documents Library, Report Forms and Templates**) and email securely to:

- Derbyshire: **GCSX.CAYAProfessionalallegations@derbyshire.gcsx.gov.uk**;

We will then discuss the allegation with the LADO; this discussion will take place within **1 working day**. The purpose of an initial discussion is for the school and LADO to consider the nature, content and context of the allegation and agree a course of action. The LADO may ask the school to provide or obtain relevant information, such as previous history, whether the child or the family have made similar allegations and the individual's current contact with children.

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 in Section 1, Introduction or may do so without warranting consideration of either a Police investigation or enquiries by Children's Social Care.

The Local Authority Designated Officer (LADO) is available for advice and support and this does not necessarily mean all discussions will lead to a LADO referral. It is important to contact the LADO in any situation where the school is unclear. Contact number 01629 531940.

The LADO will consult with Children's Social Care and the Police as appropriate and inform us of any intention to do so.

Regulatory bodies such as Ofsted and the Care Quality Commission, will need to be informed of any allegations made against members of staff who work in specific sectors. It is the responsibility of the Headteacher to make the appropriate referrals. Those regulatory bodies will be informed of the outcomes of strategy meetings held under these procedures.

Where an individual works for a contracted service, the commissioner of that service may also need to be informed and involved in subsequent discussions. Where an individual is self-employed, an agreement must immediately be reached as to which agency – Social Care, Police or regulatory body, or the LADO themselves – will take responsibility for communication with the individual.

There are up to three strands in the consideration of an allegation:

- A Police investigation of a possible criminal offence;
- Children's Social Care enquiries and/or assessment about whether a child is in need of protection or services;

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- Consideration by the school of disciplinary action, including undertaking an immediate initial risk assessment (See **Section 3, Suspension**)

The 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 will be recorded by the Headteacher and the LADO, and agreement reached on what information should be put in writing to the individual concerned and by whom. The Headteacher will then consider with the LADO what action should follow both in respect of the individual and those who made the initial allegation.

The discussion is likely to include:

- Clarification whether the allegation is within the scope of these procedures;
- Whether the allegation is demonstrably false or unfounded (without conducting an investigation, occasionally it can be identified that the allegation cannot be accurate);
- The nature of the concern, how and why it has arisen, any previous information about the child or the individual who is the subject of the allegation and their relationship (including any previous allegations made by the child);
- Any relevant background information including any particular history between the child and individual staff member;
- Any arrangements to secure the immediate safety of the child/ren, including consideration of the safety of the individual's own children;
- The necessity for a strategy meeting and whether Police and Children's Services should be contacted;
- Clarification whether, if the allegation is unlikely to lead to a police investigation, witness statements should be taken, including from the individual, as soon as possible.

If appropriate we will be sent the allegations referral form to be completed by the Headteacher or the referrer. This will include details of the adult who is the cause for concern, the school, the child, the nature of the allegation and any action taken thus far. Details of where to return the form will be included.

The Headteacher will seek advice from LADO regarding the point at which information should be shared with the subject accused. The LADO will make an informed decision based on the circumstances of the case, in consultation with Police, and provide necessary leaflets for the school to distribute. It is extremely important that we provide the subject with as much information as possible at that time. However, where a strategy discussion is needed, or Police or Children's Social Care need to be involved, we should not do that until those agencies have been consulted, and have agreed exactly what information can be disclosed to the accused.

If the allegation is not demonstrably false or unfounded (see Section 12, Action on Conclusion of a Case), and there is cause to suspect a child is suffering or is likely to suffer Significant Harm, a referral will be made to Children' Social Care. If the allegation is about physical contact, the strategy discussion or initial evaluation with the Police should take into account that some injuries may have been sustained in the course of reasonable restraint. A strategy discussion will be convened in accordance with Child Protection Section 47 Enquiries Procedure, Strategy Discussions/ Meetings; this meeting does not involve the accused person.

Where there is not an identified child, but there is still potential risk to children in general, the LADO together with the school and Police will consider who should conduct any investigation. A strategy meeting may also be necessary to evaluate the information and agree a course of action.

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Where it is clear that an investigation by the Police or Children's Social Care is unnecessary, or the strategy discussion or initial evaluation decides that is the case, the LADO should discuss the next steps with the Headteacher. In those circumstances, the options open to us 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 the future. It is important for the Headteacher to write clearly in the personnel file the rationale for any decisions taken in respect of the employee.

In some cases, further enquiries will be needed to enable a decision about how to proceed. If so, the LADO should discuss with the school how and by whom the investigation will be undertaken. In straightforward cases, the investigation should normally be undertaken by the Headteacher. In some circumstances such as the lack of resource within the agency, or the nature or complexity of the allegation, the school may wish to consider commissioning an independent investigator.

The school may approach the Local Authority to provide an independent investigation of allegations, as part of the HR services traded to schools. This is available as a standalone service at the current consultancy rate, which is halved for any school already purchasing the Childrens' Services HR Advice and Guidance package.

Where the allegation is about physical contact, the initial evaluation with the police or the strategy discussion will take account that teachers and other designated school staff are entitled to use reasonable force to control or restrain pupils in certain circumstances, including dealing with disruptive behaviour. The Physical Intervention Policy will inform the evaluation of the situation.

The Headteacher will also seek a written account from the accused person outlining their perspective of events leading to the allegation. If the individual wishes, this account may be shared at the strategy meeting, though they must be made aware that the Police will be present and may use this account as evidence in their investigation. The staff member will be advised to consult their professional association or trade union representative before submitting an account as it is likely it would be utilised as evidence.

The individual who is the subject of the allegation does not attend the Strategy Meeting in person.

3. Suspension

The possible risk of harm to children posed by an accused person will be evaluated and managed in respect of the child involved and any other children in the accused member of staff's home, work or community life.

In some cases the we will need to consider suspending the accused until the case is resolved, or make other arrangements to remove the accused person from contact with the child/children, until the investigation is complete. If we are concerned about the welfare of the other children in the community or the accused person's family, these concerns will be reported to the LADO.

Suspension will not be an automatic response when an allegation is reported; all options to avoid suspension will be considered prior to taking that step. Suspension will be considered only in a case where:

- There is a cause to suspect a child/ren is at risk of harm; or
- The allegation is so serious that it might be grounds for dismissal.

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We will consider carefully whether the circumstances warrant suspension or whether the result that would be achieved by suspension could be obtained by alternative arrangements. We will seek advice from the personnel/human resources team and the LADO. Depending on the nature of the allegation we will 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 will be agreed and recorded by both the school and LADO. This will include what alternatives to suspension have been considered and why they were rejected. The accused person will be given written confirmation, usually within one working day, giving as much detail as appropriate for the reasons for the suspension.

Please see the detailed information on Suspension in the school's disciplinary procedure. This contains both information and advice concerning the making of a decision to suspend and the appropriate procedure. It is important to follow the correct process. The school will endeavour to find an alternative to suspension, based on an assessment of risk. The following will be considered.

- Redeployment within the school 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 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 individual, making it clear that this is not a punishment and only in consultation with parents.
- Temporarily redeploying the individual to another role in a different location (generating no additional cost and accessible to the individual).

As a small school we acknowledge that we may have more difficulty in identifying alternatives to suspension.

Children's Social Care or the Police cannot require the school to suspend the member of staff or a volunteer, although they should give appropriate weight to their advice. The power to suspend is vested in the Headteacher/Chair of Governors. Where a strategy discussion or initial evaluation concludes that there should be enquiries by Children's Social Care and/or an investigation by the Police, the LADO should canvass Police and Children's Social Care for views about whether the accused needs to be suspended from contact with children. The LADO should then inform the school of these views.

The power to suspend is vested in the Headteacher/Chair of Governors, Police involvement does not make it mandatory to suspend an individual and the decision will be made on a case by case basis.

Where there remains disagreement about whether an individual should be suspended, the Chair of the strategy meeting or individual members of the meeting may consider writing to the Headteacher and Chair of Governors requesting further consideration of the matter.

If a suspended person is to return to work, the Headteacher will consider what help and support might be appropriate, for example a phased return to work and/or provision of a mentor, and also how best to manage the member of staff's contact with the child concerned, if still in the work place.

Please see the Disciplinary Procedure for details of the role of a Contact Officer and other support for a suspended individual.

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4. Supporting those Involved

We have a duty of care to our employees. We 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 Children's Social Care or the Police. It is expected that information about the allegation will be shared with the individual within 3 days (at the latest) and that where they are suspended, 4 weekly reviews will be undertaken. Under the LA model Disciplinary Procedure the initial suspension review meeting will be held within 5 working days, unless an alternative is agreed with the individual.

The Headteacher will appoint a named representative (not the investigating officer), 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. Where an individual is self-employed, agencies and the LADO must agree who will supply this function. Please see the school's Disciplinary Procedure for information on the role of the Contact Officer.

The individual will be advised to contact their trade union representative if they have one, or other source of professional support.

Where the individual is suspended a Contact Officer will be appointed as particular care needs to be taken to ensure they are kept informed of both progress of the case and current work issues. Social contact with colleagues 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.

If the employee changes job whilst the LADO investigation is ongoing, the Headteacher must make the employee aware that it is their responsibility to inform the prospective new employer of the unresolved LADO complaint. Failure to do this may result in an offer of employment being withdrawn. Minutes from the Strategy Meeting should not be shared with the individual against whom the allegation is made (see Section 2, Roles and Responsibilities).

The individual will have access to the following.

- Copy of the Local Safeguarding Children Board's Procedure for Allegations of Abuse made against a Person who works with Children.
- Information on how to access legal/union advice and representation.
- Any relevant information on the process. These do not replace the need for a face to face discussion, but provide a framework for discussion.
- Information on the process of the enquiry and planned timescales.
- Information on the interviews which may be conducted.
- Information on independent support which may be available eg, employee counselling service, professional association/ Union, General Practitioner, Teacherline.

Parents or carers of a child 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 need to be involved, we will not do so until those agencies have been consulted and have agreed what information can be disclosed to the parents or carers. Parents or carers will also be kept informed about the progress of the case, and told the outcome i.e. whether substantiated or not. Where there is a criminal investigation, the Police have a responsibility to keep a victim informed, and any prosecution is in the public domain, however they

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cannot be told the outcome of any disciplinary or other internal process. Where the allegation is against a teacher, parents and carers will also be made aware of the prohibition on reporting or publishing allegations about teachers. If parents or carers wish to apply to the court to have reporting restrictions removed, they will be told to seek legal advice.

5. Confidentiality

It is extremely important that when an allegation is made, the school makes every effort to maintain confidentiality and guard against unwanted publicity while the allegation is being investigated or considered. When allegations are made against a teacher employers must comply with the Education Act 2011, which 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 pupil 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. Breaching the reporting restrictions is a criminal offence; publication includes any speech, writing, relevant programme or communication in whatever form, which is addressed to the public at large or any section of the public; this includes social networking sites.

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 would like to depart from that rule, for example to trace a suspect, they must apply to a magistrates court to request that reporting restrictions be lifted.

The school will take advice from the LADO, Police and Children's Social Care to agree the following:

- Who needs to know and 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 should arise.

We will determine whether staff at the school are briefed with more information than the wider school community, including reminding staff of the strict confidentiality of any information provided and the response to give to any external enquiries. Staff should also be reminded of the potential consequences of breaking confidentiality. The opinion of the individual staff member and the LADO will be sought and every effort made to reach agreement on what will be communicated. At the minimum the individual will be informed of what will be communicated to appropriate sections of the school community.

We will consult with the LADO concerning any communication from the press and in relation to media coverage of the case. A central strategy will be formulated with the school, involving the Council's press office, senior officers and HR advice. It is important that a single approach to communication is agreed with all relevant parties.

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6. Resignations and 'Settlement / Compromise Agreements'

If the accused person resigns, or ceases their service, this will not prevent an allegation being followed up in accordance with this policy. The Headteacher will make a referral to the Disclosure and Barring Service (DBS) and any regulatory body when the criteria are met; there is a legal duty to refer to the DBS and not doing so is a criminal offence.

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 co-operate with the process. The accused will be given the opportunity to answer the allegation and make representations about it; wherever possible this will be in the form of a written response. 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 information available, will continue even if that cannot be done or the accused does not co-operate.

Settlement / compromise agreements by which a person agrees to resign if the employer agrees not to pursue disciplinary action, and both parties agree a form of words to be used in future reference, will not be used in these cases. Such an agreement will not prevent a thorough police investigation where that is appropriate.

7. Organised and Historical Abuse

Investigators will be alert to signs of organised or widespread abuse and/or the involvement of other perpetrators or institutions. They will consider whether the matter should be dealt with in accordance with complex abuse procedures which, if applicable, will take priority. See also Investigating Complex (Organised or Multiple) Abuse Procedure.

Historical allegations will be responded to in the same way as contemporary concerns. It is important to ascertain if the person is currently working with children.

8. 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 subject of the allegation, and about the alleged victim.

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

The school representative attending the strategy meeting will establish whether other agencies are expecting, and planning, to be able to share information from their enquiries if, and when, the case is handed back to the school for use in any disciplinary procedure.

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ALLEGATIONS AGAINST STAFF

The staff member who is the subject of the allegation will be reminded of the advice to consult their representative, as they may benefit from guidance on the benefits and implications of giving consent to the sharing of their statement.

Children's Social Care may 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 enquiries relevant to a disciplinary case can be passed to us without delay.

9. Record Keeping

Details of allegations that are found to have been malicious (see Section 12, Action on Conclusion of a Case) will be removed from personnel records. For all other allegations we will ensure 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 the confidential personnel file of the accused. *A copy will be provided to the person concerned.* The record will be retained at least until the accused has reached retirement age or for a period of 10 years from the date of the allegation if that is longer.

One 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. It will help prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time.

The Information Commissioner has published guidance on employment records in its Employment Practices Code and supplementary guidance.

Notes of each strategy meeting will be sent to:

- social worker,
- chair of meeting,
- police, if present,
- Child Protection Support Officer (for tracking purposes),
- the Case manager for the employer (eg Headteacher or Chair of Governors),
- any other invitees.

10. Timescales

It is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation. All allegations will be investigated as a priority to avoid any delay.

Where it is clear immediately that the allegation is unsubstantiated or malicious, we aim to resolve the case within one week. The decision about the need for a strategy meeting will be taken within 5 days. Any disciplinary action will be progressed as quickly as possible in line with the school's disciplinary procedures.

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Where it is decided that there will be no police involvement, it will be for the Headteacher to deal with the case. If there are still child protection concerns the Headteacher will discuss these with the LADO. If no formal disciplinary action is required, the Headteacher will instigate any appropriate follow up action within 3 working days. If disciplinary action is necessary and it has been established, with the staff member and their representative, that all relevant information has been collected and there is nothing further to be submitted or investigated, then the hearing will be arranged for within 15 days of the investigating officer's decision that there is a case to answer. Any additional disciplinary investigation needed will be progressed as soon as possible in accordance with the school's procedure.

11. Oversight and Monitoring

The LADO has overall responsibility for the oversight of the procedures for dealing with allegations; for resolving inter-agency issues; and for liaison with DSCB on the subject. The LADO will provide advice and guidance to the school, liaise with the Police, Children's Social Care and other agencies and monitor 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.

Police forces should also identify officers who will be responsible for liaising with the LADO, taking part in strategy discussion or initial evaluation, subsequently reviewing the progress of cases in which there is a Police investigation, sharing information on completion of the investigation or any prosecution.

If the Strategy Discussion or Children's Social Care single 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 with 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 four weeks after the initial evaluation. Dates for subsequent reviews, ideally at fortnightly intervals, should be set at the meeting if the investigation continues.

12. Action on Conclusion of a Case

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

- **Malicious:** there is clear evidence to disprove the allegation that there has been a deliberate act to deceive and the allegation is entirely false;
- **False:** there is sufficient evidence to disprove the allegation;
- **Unsubstantiated:** this is not the same as a false allegation. It means that there is insufficient evidence to prove or disprove the allegation. The term therefore does not imply guilt or innocence.
- **Unfounded:** to reflect cases where there is no evidence or proper basis to support the allegation made;
- **Substantiated:** there is sufficient identifiable evidence to prove the allegation.

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ALLEGATIONS AGAINST STAFF

The conclusion of any investigation should be clearly communicated in writing by the LADO to the school, and who we will communicate this to the individual along with any actions agreed within the investigation. Where an individual is self-employed, it must be clearly agreed who will undertake this task and ensure the agreed action is put in place.

If an individual disputes the outcome of an investigation, their right of challenge will be with the school through disciplinary or grievance procedures. The school, by agreeing actions with the LADO or in a strategy meeting, have accepted responsibility for these decisions and must be able to justify them to an employee or in any employment process. The same applies to any commissioner of a service or user of a volunteer. Where there is no-one in an equivalent position, or the individual has a complaint about the process rather than outcome, they will be informed about the Local Authority complaints procedure http://www.derbyshire.gov.uk/council/complaints/complaints_procedure/default.asp .

At the conclusion of the case it is essential that agreement is reached on the following:

- What information will be given to the child/parents and persons affected by the investigation and how, and by whom, this will be done;
- What information will be placed on files relating to children and staff;
- In the case of malicious allegations whether the record of this should be destroyed or retained in the staff member's personal file.

The safeguarding team's Business Services Officer will be notified of the outcomes of all cases, including the outcome of any disciplinary procedures. In addition the officer will ensure the Headteacher/Chair is informed about the outcomes of any criminal action or child protection enquiry. The LADO will make arrangements for liaising with the Headteacher/Chair concerning any action agreed, to ensure that these are implemented.

Individuals may apply for access to their record under subject access procedure; such applications will be considered by the LADO and relevant documents, appropriately redacted, will be shared.

If a person who has been suspended can return to work the Headteacher will consider how best to facilitate this. The Headteacher will consult the LADO about any remaining safeguarding issues or measures. Most employees will benefit from some help and support to return to work after a stressful experience. Depending on the circumstances a phased return and or the provision of a work-place mentor to provide assistance and support in the short term may be appropriate. The Headteacher will also consider how best to manage the staff member's re-integration into the school community, in particular with the child or children who made the allegation. There is further guidance in the Suspension section of the LA model disciplinary procedure and accompanying Advice & Guidance. Depending on the staff member's terms and conditions, there may need to be a calculation of whether the employee has any holiday owing.

13. Action following a Criminal Investigation or Prosecution

The Police or CPS should inform the school and LADO immediately when a criminal investigation and any subsequent trial is complete, or if it decided to close the investigation without charge, or not to continue to prosecute the case after the person has been charged. In these circumstances the LADO and the Headteacher will discuss whether any further action, including disciplinary action, is appropriate and if so, how to proceed. The information from Children's Social Care and the Police should inform the decision.

Policy approved.....at a Full Governors Meeting

Date of meeting:29th April 2021

Minute Number:10.6

Renewal Frequency: Annual



"I am able to do all things by the one who strengthens me" - Phillipians 3:14

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ALLEGATIONS AGAINST STAFF

14. Disciplinary or Suitability Process

The LADO and school will discuss whether disciplinary or other internal action is appropriate in all cases independently of any decision by the Police and CPS in relation to prosecution. However, the decision regarding any disciplinary action is the sole responsibility of the school; we will be separately accountable for any such decision, which is subject to the usual criteria and right of appeal as usual under employment law. The school will always take advice from our HR and/or Legal department.

The discussion will consider any potential misconduct or gross misconduct on the part of the member of staff, and take into account any relevant information from the Police and/or Children's Social Care, the result of any investigation or trial and the different standard of proof in disciplinary and criminal proceedings. We will also consider lesser action, such as increased supervision, mentoring, training, or agreed transfer to alternative duties.

In the case of supply, contract and volunteer staff, normal disciplinary procedures may not apply. In these circumstances, the LADO and school will act jointly with the providing agency.

Where an individual is self-employed, employer options are not available. Consideration will be given to how the individual's activity can be restricted or monitored through working with professional or regulatory bodies, DBS, HSE, local commissioners or Licensing committees. The Police and local DBS teams should ensure that appropriate information is included on any future DBS checks. The individual must be informed of any such action or referral, and it must be clearly agreed who is taking responsibility to do this.

If the allegation is substantiated and the person is dismissed or the school ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the school will refer the case to the Disclosure and Barring Service for consideration of inclusion on the barred lists; or to refer to any professional body.

There is a legal requirement for us to make a referral to the Disclosure and Barring Service (DBS) where we think that an individual has engaged in conduct (including inappropriate sexual conduct) that harmed (or is likely to harm) a child or if a person otherwise poses a risk of harm to a child, and we have 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.

Referral will 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. Substantiated allegations are also likely to be Professional misconduct cases and will be referred to the relevant regulatory body. For teachers a referral will also be made to the National College for Teaching and Leadership.

Where it is decided on the conclusion of a case that the individual can be considered for return to work with children, the school will consult with the LADO about any required safeguarding measures.

15. References

The school will seek guidance from the personnel/human resources team in regard to including allegations in agency references.

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ALLEGATIONS AGAINST STAFF

Cases in which an allegation was proven to be false, unsubstantiated or malicious will not be included in employer references. A history of repeated concerns or allegations which have all been found to be false, unsubstantiated or malicious, will also not be included in any reference.

See also Section 9, Record Keeping, above.

The LA model Recruitment and Selection procedure includes a recommended reference proforma for providing the relevant information. There is advice on the provision/request of references in the Safer Recruitment statutory guidance from the DfE, contained in Keeping Children Safe in Education 2015 and the safer recruitment training.

Information concerning cases where an allegation was proven to be false, unsubstantiated or malicious should not be included in references.

16. Allegations against Foster Carers and Prospective Adoptive Parents

Allegations against foster carers and prospective adoptive parents will be dealt with under these procedures. Specific details of how to manage these allegations are outlined in the **Derby Children's Social Care Procedures Manual** and **Derbyshire Council Children and Younger Adult Procedures**.

Any person who receives information, or suspects a child has suffered or is suffering **Significant Harm**, will immediately inform the child's social worker or manager. A senior manager within the Fostering Service is identified to be the designated person who liaises with the LADO in all cases to which this procedure applies and manages the allegations process.

Although there may be insufficient evidence to support a Police prosecution, this does not mean that action cannot be taken to protect a child nor that the termination of a foster carer's approval cannot be considered.

It should also be noted that it may be necessary to consider during an investigation what action, if any, should be taken with regard to other children with whom foster carers against whom allegations are made have contact, including their own children.

17. Learning Lessons

At the conclusion of a case in which an allegation is substantiated, the LADO will review the circumstances of the case with the school to determine whether there are any improvements to be made to the agency's procedures and 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 the suspension was justified. Lessons should also be learnt from the use of suspension when the individual is subsequently reinstated.

18. Action in Respect of Malicious, False or Unsubstantiated Allegations

If an allegation is determined to be malicious, false or unsubstantiated, the school and LADO will consider if the child concerned is in need of any services or if they may have been abused by someone else and refer as appropriate.

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ALLEGATIONS AGAINST STAFF

If an allegation is shown to be deliberately invented or malicious, the Headteacher may consider whether any disciplinary action against the pupil is appropriate and/or whether the police should be asked to consider if action is appropriate against the accuser or any other person responsible for the allegation, especially one who is not a pupil.

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