

Allegations and Misconduct Policy

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Policy Author	Roger Blundell

Designated Safeguarding Lead contact details:

Designated Safeguarding Lead: Roger Blundell

Designated Safeguarding Lead Contact details: roger@educationRnR.com | 01245981089

Introduction

educationRnR follows strict standards to ensure that candidates supplied to our clients are of the highest professional and personal calibre. As part of these standards, we follow safer recruitment guidance before placing candidates into any workplace, particularly those where children may be present.

educationRnR takes seriously all safeguarding concerns and allegations raised regarding our staff, candidates, workers and others engaged through educationRnR.

This policy sets out the action educationRnR will take when concerns or allegations are raised and should be read alongside our:

- Safeguarding Children Policy
- Complaints Policy
- Safer Recruitment Policy
- Code of Conduct
- Whistleblowing Policy

All educationRnR candidates and agency workers are made aware of the boundaries of appropriate behaviour and conduct. These requirements form part of registration with educationRnR and are set out within our Code of Conduct.

educationRnR works in accordance with current statutory guidance concerning allegations made against adults working with children in either a paid or voluntary capacity.

Scope of the Policy

This policy applies to anyone employed or engaged by educationRnR, including Directors, employees, work placements, volunteers, agency workers and candidates registered with us.

The legislation and statutory guidance underpinning this policy relate to England. Where candidates are placed elsewhere in the UK, the relevant legislation and statutory guidance for that jurisdiction must also be considered.

The principal statutory guidance for organisations working in the education sector is the latest version of Keeping Children Safe in Education (KCSIE). Regard will also be given to the latest version of Working Together to Safeguard Children and other applicable statutory guidance.

Any member of staff or candidate wishing to raise a concern regarding their own conditions at work or a similar employment matter should do so through educationRnR's Grievance Procedure where applicable.

Any organisation or service wishing to complain about educationRnR's services or the suitability or capability of a candidate placed with them should do so under our Complaints Policy unless the matter constitutes a safeguarding concern or allegation, in which case this policy will apply.

1. Safeguarding Concerns or Allegations Made About Staff or Candidates

Safeguarding concerns and allegations broadly fall into two categories:

- Concerns or allegations that do not meet the harm threshold, commonly referred to as low-level concerns
- Concerns or allegations that may meet the harm threshold

If anyone sees, hears or suspects something concerning an adult which suggests that they may present a risk to a child, the concern must be reported without delay.

This policy sets out the procedures to be followed by educationRnR employees and candidates when dealing with such concerns or allegations.

2. Concerns That Do Not Meet the Harm Threshold: Low-Level Concerns

educationRnR recognises the importance of ensuring that all concerns, including those which do not meet the harm threshold, are shared responsibly with the appropriate person and are recorded and dealt with appropriately.

This supports a culture of openness, trust and transparency where the values and expected behaviours set out in our Code of Conduct are consistently demonstrated, monitored and reinforced.

A low-level concern is any concern, no matter how small and even if no more than causing a sense of unease or a 'nagging doubt', that an adult working in or on behalf of a school or college may have acted in a way that:

- Is inconsistent with the Code of Conduct, including inappropriate conduct outside of work
- Does not meet the harm threshold or is otherwise not considered serious enough to consider a referral to the Local Authority Designated Officer (LADO)

Examples of such behaviour may include, but are not limited to:

- Being over-friendly with children
- Having favourites
- Taking photographs of children on a personal mobile phone contrary to school policy
- Engaging with a child on a one-to-one basis in a secluded area or behind a closed door in circumstances inconsistent with expected practice
- Humiliating children

Such behaviour exists on a wide spectrum. It may range from inadvertent or thoughtless behaviour or behaviour that appears inappropriate but may be explainable in the circumstances, through to behaviour that may ultimately be intended to enable abuse.

Low-level concerns may arise in a number of ways and from a number of sources, including suspicion, complaint, disclosure made by a child, parent or other adult or information identified through vetting or safeguarding checks.

2.1 Responding to Low-Level Concerns

Where a low-level concern has been raised, educationRnR's Designated Safeguarding Lead will gather sufficient information to understand the concern, categorise the behaviour and determine what further action may be required.

This may include speaking:

- Directly to the person who raised the concern unless it was raised anonymously
- To the individual involved
- To relevant witnesses where appropriate

Any enquiries must be proportionate and must not interfere with or prejudice any investigation that should properly be undertaken by a school, LADO, children's social care or the police.

2.2 Enquiries

Whenever there is doubt as to whether information initially identified as a low-level concern may in fact meet the harm threshold, the LADO should be consulted.

2.3 Recording Low-Level Concerns

All low-level concerns will be recorded in writing. The record should include:

- Details of the concern
- The context in which the concern arose
- Any action taken
- The name of the individual sharing the concern unless anonymity has been requested and can appropriately be maintained

2.4 Record Keeping

Records of low-level concerns will be kept confidential in accordance with educationRnR's data retention arrangements, the Data Protection Act 2018 and UK GDPR.

Records should be reviewed where appropriate so that potential patterns of concerning, problematic or inappropriate behaviour can be identified and appropriate action taken.

3. Criteria for Concerns That May Meet the Harm Threshold

A concern or allegation may meet the harm threshold where an adult who works with children 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 towards a child or children in a way that indicates they may pose a risk of harm to children
- Behaved or may have behaved in a way that indicates they may not be suitable to work with children

The final criterion includes behaviour that may have occurred outside a school, college or workplace which may nevertheless indicate that the individual is unsuitable to work with children. This is sometimes referred to as transferable risk.

Where appropriate, educationRnR will consider whether an assessment of transferable risk is required.

Where concerns are raised about someone who works with children, consideration must also be given to any potential risk to other children who may have contact with that person, including children within their family or wider personal circumstances.

4. Allegations Regarding Candidates on Placement in an Education Setting

Where an allegation concerns an educationRnR candidate working within a school or college, educationRnR will act in accordance with the latest version of KCSIE.

Schools, colleges and educationRnR share safeguarding responsibilities where allegations concern individuals who are not directly employed by the school or college, including supply staff, trainee teachers and contracted staff.

The school or college will usually lead the safeguarding process and gathering of facts because it has direct access to the child, staff, witnesses and other relevant information.

educationRnR will be fully involved and will cooperate with enquiries from the school or college, LADO, police, local authority children's social care and any other appropriate safeguarding authority.

A school or college should not simply cease using an agency worker because a safeguarding concern has been raised without the matter being properly considered and the appropriate safeguarding process followed.

educationRnR will work with the school or college and relevant authorities to determine whether it is appropriate for the candidate to be suspended from assignments or whether other measures are appropriate while enquiries are undertaken.

educationRnR will:

- Cooperate fully with the safeguarding process
- Attend relevant meetings where requested or appropriate
- Share relevant information lawfully and appropriately
- Consider any previous concerns or allegations known to educationRnR
- Keep appropriate records
- Consider its own responsibilities as an employment business
- Consider whether disciplinary or other action is required
- Consider whether a referral to the DBS or another professional or regulatory body is required
- Provide appropriate support to the candidate concerned

Where an educational establishment leads an investigation, educationRnR will use its best endeavours to assist with that investigation.

educationRnR reserves the right to undertake its own employment, disciplinary or suitability process where appropriate, including where concerns remain regarding the suitability of a candidate to work with children.

The remainder of this policy sets out the process that may apply where educationRnR is required to take the lead or undertake its own process, including where a concern is historical, arises outside an education setting or otherwise requires action by educationRnR.

5. Procedure When an Allegation Is Made

There may be up to three strands when considering a safeguarding concern or allegation:

- A police investigation into a possible criminal offence

- Enquiries and assessment by children's social care to establish whether a child is in need of protection or services
- Consideration by an employer or employment business of disciplinary, suitability or other action concerning the individual

These processes may run separately or alongside one another as appropriate.

6. educationRnR Responsibilities and Multi-Agency Partnerships

educationRnR's policies and procedures ensure that candidates and staff understand their responsibility to protect children from abuse, neglect and harm.

Our Code of Conduct provides guidance on the behaviour expected of candidates while on placement. Safeguarding organisations have a shared responsibility to work together to protect children from harm. educationRnR will cooperate with local authorities, schools, colleges, police, children's social care, LADOs and other relevant agencies as appropriate.

Allegations concerning people who work with children must not be dealt with in isolation. Any necessary action to safeguard other children should be considered without delay and in a coordinated manner.

Historical allegations will be taken as seriously as current concerns. Where an historical allegation is received, consideration must be given to whether the person concerned is currently working with children and whether their current employer or organisation or another appropriate authority needs to be informed.

The standard of proof in criminal proceedings is 'beyond reasonable doubt'. Internal employment, disciplinary and suitability decisions generally apply the civil standard of 'on the balance of probabilities'.

The conclusion of criminal proceedings without prosecution or conviction does not automatically mean that safeguarding, regulatory, suitability or disciplinary processes should cease.

Where the relevant legal criteria are met, educationRnR has a duty to make a referral to the Disclosure and Barring Service.

This may include circumstances where a person is removed from regulated activity because they have harmed or pose a risk of harm to a child or where they leave before they could otherwise have been removed.

educationRnR will have regard to relevant local safeguarding partner arrangements and procedures when responding to allegations and concerns.

7. Actions Required Following an Allegation

Any allegation against a candidate, employee or other person engaged by educationRnR who works with children must be reported immediately to educationRnR's Designated Safeguarding Lead.

When an allegation has been made, educationRnR must not undertake an investigation by interviewing the accused person, child or potential witnesses where doing so could interfere with the appropriate safeguarding process.

educationRnR should initially undertake only sufficient fact-finding to establish the nature of the allegation and whether there is credible information requiring further action.

Where there is uncertainty, advice should be sought from the LADO.

educationRnR will, as appropriate:

- Obtain written details of the allegation, signed and dated by the person receiving the allegation or complaint and any other relevant person
- Countersign and date relevant written details where appropriate
- Record discussions concerning the child and/or accused person, decisions made and the reasons for those decisions
- Determine whether immediate action is required to safeguard a child
- Determine whether an urgent referral to children's social care and/or the police is required
- Consult relevant local safeguarding procedures
- Seek advice from the LADO
- Ensure appropriate records are maintained

The accused person must not automatically be informed of the allegation before consideration has been given to the effect this may have on any subsequent safeguarding or criminal investigation.

Where the harm threshold may have been met, contact with the LADO should be made within one working day.

At an appropriate point agreed with the relevant safeguarding authorities, the person concerned should be informed of the allegation, the process being followed and their rights under relevant employment or contractual arrangements.

Throughout the process, individuals against whom allegations have been made should be treated fairly and respectfully and provided with appropriate support.

7.1 Persons to Be Notified

Concerns should be shared immediately with educationRnR's DSL.

A plan of action should be established, including:

- Who needs to be notified
- Who will make those notifications
- Whether evidence needs to be preserved
- Whether immediate action is necessary to prevent further harm
- Whether the LADO should be contacted
- Whether children's social care should be contacted
- Whether the police should be contacted

Where a criminal offence may have been committed, the police should be informed where appropriate.

Where the individual concerned has contact with other children who may potentially be at risk, including children within their own family, consideration should be given to referral to children's social care.

7.2 Enquiries

educationRnR will have regard to relevant local safeguarding partner procedures and advice from the LADO.

Depending upon the circumstances, consideration may be given to:

- Any police investigation
- Any children's social care enquiries
- Any disciplinary or suitability process
- Previous concerns or allegations concerning the individual
- Whether a Section 47 enquiry is required
- Whether a complex abuse investigation may be relevant
- The scope and timescale of enquiries
- Information sharing
- Protection of the child and other children potentially affected
- Support for children affected directly or indirectly
- Support for the person against whom the allegation has been made
- Ensuring investigations are appropriately independent
- Appropriate communication with parents or carers
- Identifying appropriate contacts within the organisations involved
- Arrangements for reviewing progress

educationRnR will cooperate fully with any multi-agency safeguarding process.

7.3 Possible Risk to Others

The potential risk of harm to other children should be considered and managed, including children who may be at risk through the accused person's home, work or community life.

Where necessary, appropriate action will be taken through relevant safeguarding procedures to protect other children from harm.

7.4 Sharing Information and Confidentiality

Information concerning allegations must be handled carefully, lawfully and proportionately.

Unless doing so could place a child or another person at risk, compromise an investigation or lead to evidence being destroyed, the individual concerned should normally be informed that relevant information regarding the allegation may need to be shared.

Decisions concerning information sharing must be justified and proportionate to the potential or actual risk of harm and the reasons for decisions should be recorded.

Where appropriate, decisions concerning the timing and extent of information sharing should be made in consultation with the LADO, police, children's social care or other relevant authorities.

The person against whom an allegation has been made should be given an appropriate opportunity to respond as part of the relevant process.

Every reasonable effort should be made to maintain confidentiality and protect the interests of the child, their family and the person against whom the allegation has been made.

Staff and candidates must not discuss allegations outside formal and authorised processes and must not publish or comment upon allegations on social media.

A breach of confidentiality may result in disciplinary or contractual action.

7.5 Media

Any media interest relating to an allegation must be handled carefully.

Where relevant, communication with the media should be coordinated with the organisations and authorities involved in the safeguarding process.

No educationRnR employee or candidate is authorised to make statements to the media regarding an ongoing safeguarding matter without appropriate authorisation.

7.6 Support for the Child and Their Family

The organisation responsible for liaison with the child and their parents or carers should keep them appropriately informed of the progress of the process while respecting confidentiality and the rights of all parties involved.

Professionals providing support should remain impartial and should avoid expressing opinions concerning the outcome of an ongoing investigation.

educationRnR will cooperate with the relevant organisation and safeguarding authorities in supporting appropriate arrangements.

7.7 Support for the Accused Person

As soon as appropriate after an allegation has been received, the candidate or member of staff should be advised that they may wish to contact their trade union, professional association or other appropriate representative.

educationRnR will consider what appropriate support can be provided during the process.

Following the conclusion of an investigation, where the individual returns to work or assignments, educationRnR will consider whether any additional support or arrangements are appropriate.

7.8 Suspension

Suspension or removal from an assignment should not be an automatic response to an allegation.

It may be considered where:

- There is concern that a child is suffering or is likely to suffer harm
- A police investigation is taking place
- The allegation is sufficiently serious that dismissal, removal from assignments or other significant action may result
- Continued attendance at a placement may compromise an investigation
- There is no reasonable alternative means of managing the identified safeguarding risk

Any decision concerning suspension or removal from an assignment should take account of relevant advice, including from the LADO where appropriate.

educationRnR will consider whether alternatives to suspension are available and appropriate.

8. Outcomes

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

Substantiated: There is sufficient identifiable evidence to prove the allegation.

Malicious: There is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive or cause harm to the person who is the subject of the allegation.

False: There is sufficient evidence to disprove the allegation.

Unsubstantiated: There is insufficient evidence to prove or disprove the allegation. This does not imply guilt or innocence.

Unfounded: There is no evidence or proper basis to support the allegation.

Where it is established that an allegation was deliberately invented, consideration should be given to whether any further action is appropriate. Where relevant, the police may be asked to consider whether action should be taken.

educationRnR will also consider whether any changes to working practices, safeguarding arrangements, risk assessments, training or other procedures are appropriate.

9. Disciplinary and Suitability Process

Following an allegation or safeguarding investigation, educationRnR will determine whether disciplinary, contractual or suitability action is required.

Where appropriate, this decision will be made having regard to information and advice received from the LADO, police, children's social care, school or college and other relevant authorities.

In relation to candidates, educationRnR will consider whether it remains appropriate for the individual to be supplied or introduced to clients and whether any restrictions or additional safeguards are required.

educationRnR will also consider whether a referral is required to the DBS, Teaching Regulation Agency or another relevant professional or regulatory body.

The outcome of criminal proceedings will be taken into account but will not necessarily determine the outcome of educationRnR's own safeguarding, disciplinary or suitability process.

10. Terminating Employment or Assignment

Wherever reasonably possible, a safeguarding or disciplinary process should be concluded even where:

- An employee or worker does not cooperate with the investigation
- An employee resigns
- A candidate withdraws their registration
- A worker terminates or ceases an assignment
- An individual otherwise stops providing services before the process is complete

Where educationRnR has a legal duty to make a referral to the DBS, an agreement must not be entered into which allows an individual to leave in order to avoid appropriate safeguarding action or a required DBS referral.

Where an individual is removed from regulated activity because they have harmed or pose a risk of harm to a child or educationRnR would have removed them had they not left first, educationRnR will make a referral to the DBS where the statutory referral criteria are met.

11. Record Keeping

educationRnR will maintain a clear and comprehensive record of allegations, decisions reached and actions taken.

Records should include:

- Details of the allegation
- How the allegation was followed up
- Relevant discussions
- Decisions reached
- Reasons for those decisions
- The final outcome
- Action taken

Records will be retained in accordance with applicable statutory guidance, legal requirements and educationRnR's data retention arrangements.

Records will be kept securely and confidentially with access limited to those who have a legitimate need to access them.

Details of allegations found to be malicious or false will be dealt with in accordance with current statutory guidance and applicable data protection requirements.

12. References

Allegations which are found to be false, unfounded, unsubstantiated or malicious should not be included in employment references.

A history of repeated concerns or allegations which have all been found to be false, unfounded, unsubstantiated or malicious should also not be included.

A substantiated safeguarding allegation that meets the harm threshold may be included in a reference where appropriate, provided the information is factual, accurate and does not include unsupported opinion.

13. Unsubstantiated or False Allegations

Where there is insufficient evidence to substantiate an allegation, the outcome should be appropriately recorded.

An unsubstantiated allegation is not the same as an allegation which has been shown to be false.

Where it is established that an allegation has been deliberately invented, consideration should be given to whether any appropriate action is required, including whether the police should be consulted.

The welfare and support needs of any child involved must remain an important consideration regardless of the outcome.

14. Referral to the Disclosure and Barring Service

educationRnR recognises its legal responsibilities concerning referrals to the Disclosure and Barring Service.

Where the statutory referral criteria are met, educationRnR will make the required referral.

This includes circumstances where an individual has been removed from regulated activity because they have harmed or pose a risk of harm to a child and circumstances where they leave, resign or withdraw before they could otherwise have been removed.

The fact that an individual has resigned, ceased an assignment, withdrawn from educationRnR or otherwise stopped working will not prevent educationRnR from making a referral where the statutory criteria are met.

Where educationRnR is uncertain whether the referral criteria are met, appropriate advice will be sought.

15. Learning Lessons

At the conclusion of an allegation or safeguarding investigation, educationRnR will consider whether there are lessons that can be learned from the case.

Where appropriate, this review will be undertaken with the LADO, school, college or other relevant parties.

The review should consider:

- Whether educationRnR's policies and procedures operated effectively
- Whether safeguarding concerns were identified and reported appropriately
- Whether information was shared appropriately
- Whether action was taken promptly
- Whether any recruitment, compliance or safeguarding processes require improvement
- Whether additional training or guidance is required
- Whether changes to policies, procedures or working practices are necessary

Where improvements are identified, these should be implemented as soon as reasonably practicable and communicated to relevant staff.

16. Monitoring and Review

This policy will be reviewed at least annually and sooner where necessary, including following:

- Changes in legislation or statutory guidance
- Changes to relevant local safeguarding arrangements
- Learning arising from an allegation, safeguarding incident or investigation
- Changes to educationRnR's operations or working practices
- Recommendations from an audit, regulatory body, professional organisation or safeguarding authority

All staff and candidates are expected to cooperate with this policy and with safeguarding investigations and procedures.