

Allegations against staff Policy

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Aims

The aims of this policy are to ensure that any allegation made against a member of staff is dealt with fairly, promptly and in line with current DFE guidance.

The Trust will take seriously all allegations. In the event of a pupil making an allegation, the individual school will listen carefully to the pupil's concern and take seriously any claim and treat the allegation with due respect and thoroughness.

Procedure

In the event of an allegation being made, the school will follow the Local Authority's procedures for recording and following up the allegation. [The details of these procedures can be found using this link.](#)

This policy should be read alongside the individual school policies on:

- Safeguarding and Child Protection
- Safeguarding and Safer Working Practice

1. Section 1: allegations that may meet the harm threshold

This section applies to all cases in which it is alleged that a current member of staff, including a supply teacher, volunteer or contractor, has:

- o Behaved in a way that has harmed a child, or may have harmed a child, and/or
- o Possibly committed a criminal offence against or related to a child, and/or
- o Behaved towards a child or children in a way that indicates they may pose a risk of harm to children, and/or
- o Behaved or may have behaved in a way that indicates they may not be suitable to work with children – this includes behaviour taking place both inside and outside of school

If we're in any doubt as to whether a concern meets the harm threshold, we will consult our local authority designated officer (LADO).

We will deal with any allegation of abuse quickly, in a fair and consistent way that provides effective child protection while also supporting the individual who is the subject of the allegation.

A 'case manager' will lead any investigation. This will be the headteacher, or the chair of governors where the headteacher is the subject of the allegation. The case manager will be identified at the earliest opportunity.

Our procedures for dealing with allegations will be applied with common sense and judgement.

If we receive an allegation of an incident happening while an individual or organisation was using the school premises to run activities for children, we will follow our safeguarding policies and procedures and inform our LADO.

Suspension of the accused until the case is resolved

Suspension of the accused will not be the default position and will only be considered in cases where there is reason to suspect that a child or other children is/are at risk of harm, or the case is so serious that there might be grounds for dismissal. In such cases, we will only suspend an individual if we have considered all other options available and there is no reasonable alternative.

Based on an assessment of risk, we will consider alternatives such as:

- 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 the individual to alternative work in the school so that they do 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 parents/carers have been consulted
- Temporarily redeploying the individual to another role in a different location, for example to an alternative school or other work for the Trust.

If in doubt, the case manager will seek views from the Trust's HR adviser and the designated officer at the local authority, as well as the police and local authority children's social care where they have been involved.

Definitions for outcomes of allegation investigations

- **Substantiated:** there is sufficient evidence to prove the allegation
- **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive, or to cause harm to the subject of the allegation
- **False:** there is sufficient evidence to disprove the allegation
- **Unsubstantiated:** there is insufficient evidence to either prove or disprove the allegation (this does not imply guilt or innocence)
- **Unfounded:** to reflect cases where there is no evidence or proper basis that supports the allegation being made

Procedure for dealing with allegations

In the event of an allegation that meets the criteria above, the case manager will take the following steps:

- Conduct basic enquiries in line with local procedures to establish the facts to help determine whether there is any foundation to the allegation before carrying on with the steps below
- Discuss the allegation with the designated officer at the local authority. This is to consider the nature, content and context of the allegation and agree a course of action, including whether further enquiries are necessary to enable a decision on how to proceed, and whether it is necessary to involve the police and/or local authority children's social care services. (The case manager may, on occasion, consider it necessary to involve the police before consulting the designated officer – for example, if the accused individual is deemed to be an immediate risk to children or there is evidence of a possible criminal offence. In such cases, the case manager will notify the designated officer as soon as practicably possible after contacting the police)

- o Inform the accused individual of the concerns or allegations and likely course of action as soon as possible after speaking to the designated officer (and the police or local authority children's social care services, where necessary). Where the police and/or local authority children's social care services are involved, the case manager will only share such information with the individual as has been agreed with those agencies
- o Where appropriate (in the circumstances described above), carefully consider whether suspension of the individual from contact with children at the school is justified or whether alternative arrangements such as those outlined above can be put in place. Advice will be sought from the designated officer, police and/or local authority children's social care services, as appropriate
- o Where the case manager is concerned about the welfare of other children in the community or the individual's family, they will discuss these concerns with the DSL and make a risk assessment of the situation. If necessary, the DSL may make a referral to local authority children's social care
- o **If immediate suspension is considered necessary**, agree and record the rationale for this with the designated officer. The record will include information about the alternatives to suspension that have been considered, and why they were rejected. Written confirmation of the suspension will be provided to the individual facing the allegation or concern within 1 working day, and the individual will be given a named contact at the school and their contact details
- o **If it is decided that no further action is to be taken** in regard to the subject of the allegation or concern, record this decision and the justification for it and agree with the designated officer what information should be put in writing to the individual and by whom, as well as what action should follow both in respect of the individual and those who made the initial allegation
- o **If it is decided that further action is needed**, take steps as agreed with the designated officer to initiate the appropriate action in school and/or liaise with the police and/or local authority children's social care services as appropriate
- o Provide effective support for the individual facing the allegation or concern, including appointing a named representative to keep them informed of the progress of the case and considering what other support is appropriate.
- o Inform the parents or carers of the child/children involved about the allegation as soon as possible if they do not already know (following agreement with local authority children's social care services and/or the police, if applicable). The case manager will also inform the parents or carers of the requirement to maintain confidentiality about any allegations made against teachers (where this applies) while investigations are ongoing. Any parent or carer who wishes to have the confidentiality restrictions removed in respect of a teacher will be advised to seek legal advice
- o Keep the parents or carers of the child/children involved informed of the progress of the case (only in relation to their child – no information will be shared regarding the staff member)

- o Make a referral to the DBS where it is thought that the individual facing the allegation or concern has engaged in conduct that harmed or is likely to harm a child, or if the individual otherwise poses a risk of harm to a child

If the Trust is made aware that the secretary of state has made an interim prohibition order in respect of an individual, we will immediately suspend that individual from teaching, pending the findings of the investigation by the Teaching Regulation Agency.

Where the police are involved, wherever possible the school will ask the police at the start of the investigation to obtain consent from the individuals involved to share their statements and evidence for use in the school's disciplinary process, should this be required at a later point.

Additional considerations for supply teachers and all contracted staff

If there are concerns or an allegation is made against someone not directly employed by the school, such as a supply teacher or contracted staff member provided by an agency, we will take the actions below in addition to our standard procedures.

- o We will not decide to stop using an individual due to safeguarding concerns without finding out the facts and liaising with our LADO to determine a suitable outcome
- o The governing board will discuss with the agency whether it is appropriate to suspend the individual, or redeploy them to another part of the school, while the school carries out the investigation
- o We will involve the agency fully, but the school will take the lead in collecting the necessary information and providing it to the LADO as required
- o We will address issues such as information sharing, to ensure any previous concerns or allegations known to the agency are taken into account (we will do this, for example, as part of the allegations management meeting or by liaising directly with the agency where necessary)

When using an agency, we will inform them of our process for managing allegations, and keep them updated about our policies as necessary, and will invite the agency's HR manager or equivalent to meetings as appropriate.

Timescales

We will deal with all allegations as quickly and effectively as possible and will endeavour to comply with the following timescales, where reasonably practicable:

- o Any cases where it is clear immediately that the allegation is unsubstantiated or malicious should be resolved within 1 week
- o If the nature of an allegation does not require formal disciplinary action, appropriate action should be taken within 3 working days

- o If a disciplinary hearing is required and can be held without further investigation, this should be held within 15 working days

However, these are objectives only and where they are not met, we will endeavour to take the required action as soon as possible thereafter.

Specific actions

9a. Action following a criminal investigation or prosecution

The case manager will discuss with the local authority's designated officer whether any further action, including disciplinary action, is appropriate and, if so, how to proceed, taking into account information provided by the police and/or local authority children's social care services.

9b. Conclusion of a case where the allegation is substantiated

If the allegation is substantiated and the individual is dismissed or the school ceases to use their services, or the individual resigns or otherwise ceases to provide their services, the school will make a referral to the DBS for consideration of whether inclusion on the barred lists is required.

If the individual concerned is a member of teaching staff, the school will consider whether to refer the matter to the Teaching Regulation Agency to consider prohibiting the individual from teaching.

9c. Individuals returning to work after suspension

If it is decided on the conclusion of a case that an individual who has been suspended can return to work, the case manager will consider how best to facilitate this.

The case manager will also consider how best to manage the individual's contact with the child or children who made the allegation, if they are still attending the school.

9d. Unsubstantiated, unfounded, false or malicious allegations

If an allegation is:

- o Determined to be unsubstantiated, unfounded, false or malicious, the LADO and case manager will consider the appropriate next steps. If they consider that the child and/or person who made the allegation is in need of help, or the allegation may have been a cry for help, a referral to local authority children's social care may be appropriate
- o Shown to be deliberately invented, or malicious, the school will consider whether any disciplinary action is appropriate against the individual(s) who made it

9e. Confidentiality and information sharing

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

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

- o Who needs to know about the allegation and what information can be shared

- How to manage speculation, leaks and gossip, including how to make parents or carers of a child/children involved aware of their obligations with respect to confidentiality
- What, if any, information can be reasonably given to the wider community to reduce speculation
- How to manage press interest if, and when, it arises

9f. Record-keeping

The case manager will maintain clear records about any case where the allegation or concern meets the criteria above and store them on the individual's confidential personnel file for the duration of the case.

The records of any allegation that, following an investigation, is found to be malicious or false will be deleted from the individual's personnel file (unless the individual consents for the records to be retained on the file).

For all other allegations (which are not found to be malicious or false), the following information will be kept on the file of the individual concerned:

- A clear and comprehensive summary of the allegation
- Details of how the allegation was followed up and resolved
- Notes of any action taken, decisions reached and the outcome
- A declaration on whether the information will be referred to in any future reference

In these cases, the school will provide a copy to the individual, in agreement with local authority children's social care or the police as appropriate.

We will retain all records at least until the accused individual has reached normal pension age, or for 10 years from the date of the allegation if that is longer.

9h. References

When providing employer references, we will:

- Not refer to any allegation that has been found to be false, unfounded, unsubstantiated or malicious, or any repeated allegations that have all been found to be false, unfounded, unsubstantiated or malicious
- Include substantiated allegations, provided that the information is factual and does not include opinions

Learning lessons

After any cases where the allegations are substantiated, the case manager will review the circumstances of the case with the LADO to determine whether there are any improvements that we can make to the school's procedures or practice to help prevent similar events in the future.

This will include consideration of (as applicable):

- Issues arising from the decision to suspend the member of staff
- The duration of the suspension
- Whether or not the suspension was justified

- o The use of suspension when the individual is subsequently reinstated. We will consider how future investigations of a similar nature could be carried out without suspending the individual

For all other cases, the case manager will consider the facts and determine whether any improvements can be made.

Non-recent allegations

Abuse can be reported, no matter how long ago it happened.

We will report any non-recent allegations made by a child to the LADO in line with our local authority's procedures for dealing with non-recent allegations.

Where an adult makes an allegation to the school that they were abused as a child, we will advise the individual to report the allegation to the police.

Section 2: concerns that do not meet the harm threshold

This section applies to all concerns (including allegations) about members of staff, including supply teachers, volunteers and contractors, which do not meet the harm threshold set out in section 1 above.

Concerns may arise through, for example:

- o Suspicion
- o Complaint
- o Safeguarding concern or allegation from another member of staff
- o Disclosure made by a child, parent or other adult within or outside the school
- o Pre-employment vetting checks

We recognise the importance of responding to and dealing with any concerns in a timely manner to safeguard the welfare of children.

12a. Definition of low-level concerns

The term 'low-level' concern is any concern – no matter how small – that an adult working in or on behalf of the school may have acted in a way that:

- o Is inconsistent with the staff code of conduct, including inappropriate conduct outside of work, **and**
- o Does not meet the allegations threshold or is otherwise not considered serious enough to consider a referral to the designated officer at the local authority

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

- o Being overly friendly with children
- o Having favourites
- o Taking photographs of children on their mobile phone
- o Engaging with a child on a one-to-one basis in a secluded area or behind a closed door

- o Humiliating pupils

12b. Sharing low-level concerns

We recognise the importance of creating a culture of openness, trust and transparency to encourage all staff to confidentially share low-level concerns so that they can be addressed appropriately.

We will create this culture by:

- o Ensuring staff are clear about what appropriate behaviour is, and are confident in distinguishing expected and appropriate behaviour from concerning, problematic or inappropriate behaviour, in themselves and others
- o Empowering staff to share any low-level concerns
- o Empowering staff to self-refer
- o Addressing unprofessional behaviour and supporting the individual to correct it at an early stage
- o Providing a responsive, sensitive and proportionate handling of such concerns when they are raised
- o Helping to identify any weakness in the school's safeguarding system

12c. Responding to low-level concerns

If the concern is raised via a third party, the headteacher will collect evidence where necessary by speaking:

- o Directly to the person who raised the concern, unless it has been raised anonymously
- o To the individual involved and any witnesses

The headteacher will use the information collected to categorise the type of behaviour and determine any further action, in line with the Trust's Code of Conduct. The headteacher will be the ultimate decision-maker in respect of all low-level concerns, though they may wish to collaborate with the DSL.

12d. Record keeping

All low-level concerns will be recorded in writing. In addition to details of the concern raised, records will include the context in which the concern arose, any action taken and the rationale for decisions and action taken.

Records will be:

- o Kept confidential, held securely and comply with the Data Protection Act 2018 and the UK GDPR
- o Reviewed so that potential patterns of concerning, problematic or inappropriate behaviour can be identified. Where a pattern of such behaviour is identified, we will decide on a course of action, either through our disciplinary procedures or, where a pattern of behaviour moves from a concern to meeting the harm threshold as described in section 1 of this appendix, we will refer it to the designated officer at the local authority
- o Retained at least until the individual leaves employment at the school

Where a low-level concern relates to a supply teacher or contractor, we will notify the individual's employer, so any potential patterns of inappropriate behaviour can be identified.

12e. Monitoring

The Trust Board receives regular safeguarding assurance reports, including allegations data, to enable effective governance oversight in line with Academy Trust Handbook expectations. These reports support Trustees in monitoring safeguarding culture, compliance, and risk across the Trust.

12f. References

We will not include low-level concerns in references unless:

- o The concern (or group of concerns) has met the threshold for referral to the designated officer at the local authority and is found to be substantiated; and/or
- o The concern (or group of concerns) relates to issues that would ordinarily be included in a reference, such as misconduct or poor performance

Who to Report to

Any allegations against staff should always be reported to the Headteacher of the relevant School. If the allegation is about the Headteacher, the allegation should be reported to the CEO of The Balcarras Trust. This would also apply if the CEO is acting as a Headteacher and the allegation is about them as a Headteacher.

Key Points

If an allegation is made against a member of staff the quick resolution of that allegation will be a clear priority to the benefit of all concerned. Any unnecessary delays should be eradicated.

- In response to an allegation all other options should be considered before suspending a member of staff: suspension should not be the default option. An individual should be suspended only if there is no reasonable alternative. If suspension is deemed appropriate, the reasons and justification should be recorded by the employer and the individual notified of the reasons.
- Allegations that are found to be malicious should be removed from personnel records; and any that are unsubstantiated, are unfounded or malicious should not be referred to in employer references.
- Pupils that are found to have made malicious allegations are likely to have breached school behaviour policies. The school will therefore consider whether to apply an appropriate sanction, which could include suspension or permanent exclusion (as well as referral to the police if there are grounds for believing a criminal offence may have been committed).
- Concerns or allegations that may constitute whistleblowing are managed in accordance with the Trust's Whistleblowing Policy, which should be read alongside this policy to ensure clear reporting routes and protections for individuals raising concerns.

Duties as an employer and employee

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

Supporting those Involved

The Trust has a duty of care to its staff. The individual school should act to manage and minimise the stress inherent in the allegations process. Support for the individual is key to fulfilling this duty. Individuals should 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 should be advised to contact their trade union representative, if they have one, or a colleague for support.

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 needs to 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 should 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 should be told about the allegation as soon as possible if they do not already know of it. However, where a strategy discussion is required, or police or children's social care services need to be involved, the case manager should not do so until those agencies have been consulted and have agreed what information can be disclosed to the parents or carers. Parent or carers should also be kept informed about the progress of the case and told the outcome where there is not a criminal prosecution, including the outcome of any disciplinary process. The deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, cannot normally be disclosed, but the parents or carers of the child should be told the outcome in confidence.

Parents and carers should 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 should be told to seek legal advice.

In deciding what information to disclose, careful consideration should be given to the provisions of the Data Protection Act 1998, the law of confidence and, where relevant, the Human Rights Act 1998.

In cases where a child may have suffered significant harm, or there may be a criminal prosecution, children's social care services, or the police as appropriate, should consider what support the child or children involved may need.

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 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 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 or the General Teaching Council for Wales 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 provisions commenced on 1 October 2012.

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 school would take very seriously any such publication and look to take appropriate action against the person publishing the information.

In accordance with the Association of Chief Police Officers’ (ACPO) guidance 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, e.g. an appeal to trace a suspect, they must apply to a magistrates’ court to request that reporting restrictions be lifted).

The case manager should 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 should arise

Resignations and ‘compromise agreements’

If the accused person resigns, or ceases to provide their services, this should not prevent an allegation being followed up in accordance with this guidance. It is important that every effort is 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 cooperate with the process. Wherever possible the accused should be given a full opportunity to answer the allegation and make representations about it. But 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, should continue even if that cannot be done or the accused does not cooperate. It may be difficult to reach a conclusion in those circumstances, and

it may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete, but it is important to reach and record a conclusion wherever possible.

So-called '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 any future reference, should not be used in these cases. Such an agreement will not prevent a thorough police investigation where that is appropriate. Nor can it override the statutory duty to make a referral to the Disclosure and Barring Service (DBS) where circumstances require that.