

<b>Category</b>	Safeguarding & Child Protection		
<b>Document Name</b>	Allegations of Abuse Against Staff Policy		
<b>Accountable Body</b>	RADIUS Trust		
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## Related Documents

Document	Reference
Allegations of Abuse Against Staff Procedures	SC.P10.T1
Safeguarding & Child Protection Procedures	SC.P1.01
Staff Code of Conduct	SC.P1.T8
Code of Conduct for Residents of Staff Accommodation	HR.P20.T2
Data Retention Protocol	SY.P1.T1
Guidance for Staff Facing Allegation	SC.P10.T2

## Reference Material

Guidance
Working Together to Safeguard Children 2015
Keeping Children Safe in Education DfE September 2016
Local Safeguarding Children Board (LSCB) Child Protection procedures
What to do if you are worried a child is being abused – Advice for practitioners March 2015

## Related Policies

Name	Reference
Safeguarding & Child Protection Policy	SC.P1
Recruitment Policy	HR.P1
Whistleblowing Policy	HR.P3
Data Security, Protection and Retention Policy	SY.P1

## Introduction

This document sets out the policy requirements in relation to allegations of abuse against staff and volunteers with respect to Safeguarding & Child Protection and complies with the DfE statutory guidance Keeping Children Safe in Education September 2016.

The Trust requires each school to comply with this policy and implement procedures as stated in the Trust Allegation of Abuse Against Staff Procedures to manage situations where it has been alleged that staff or volunteers have:

- 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; or
- behaved towards a child or children in a way that indicates he or she would pose a risk of harm to children.

Any such behaviour should be considered within the context of the four categories of abuse ie physical, sexual, emotional abuse and neglect including concerns relating to inappropriate relationships between members of staff and children or young people.



This policy applies to staff that are currently employed by the Trust as the Accountable Body for each school. All other allegations (e.g. historical / non-recent allegations) must be referred to the police by school management.

The same procedures should also be applied where the Trust is aware of allegations against staff in their personal lives or allegations against an individual closely associated with a member of staff eg partner, someone living in the same household.

## **Policy Statement**

Where staff have interaction with children and young people, the opportunity to abuse them also exists. Given their daily contact with pupils in a variety of situations, including the wider caring role, staff are also vulnerable to accusations of abuse. Staff relationships with pupils may lead to allegations against them being made by pupils or parents. Those allegations may be false, malicious or unsubstantiated and may be either deliberate or innocent of such intent. Regardless of the motives underlying any allegations, they may also be substantiated, and should always be taken seriously.

The Trust expects each school to deal with allegations quickly and fairly with a consistent approach as detailed in the Trust Allegations of Abuse Against Staff Procedures to provide effective protection for the child or young person as well as supporting the employee who is the subject of the allegation. The individual employee (or other adult) should be informed about the allegation as soon as possible and given an explanation of the course of action (unless there is an objection from local authority Designated Officer (LADO) / social services/police).

The Trust and each school have a duty of care towards its employees and recognise the need to provide support if an allegation is made and provide a named contact if the individual is suspended. Each school is also expected to advise the member of staff to contact their trade union representative/ member of professional association or a colleague for support.

In all cases the Headteacher/Principal or senior manager within the school is required to share the information with the Local Authority Designated Officer (LADO) who is independent of the school. The initial sharing of information with the LADO determines if further action or police involvement is required (assuming the police have not already been informed in the case of immediate risk to the child or young person or evidence of a criminal offence).

The rights of the child/young person and member of staff must be considered in all incidents. However, where there exists a conflict of interest between the adult and the child, then the child's interests must be paramount as required by the Children Act 1989. In investigating allegations, actions should be conducted in a way that recognises the vulnerability of employees (including volunteers or other adults) and seeks to protect them as far as possible from mistaken or false allegations.

## **Roles & Responsibilities**

### School Governing Body

1. If the allegation made to a member of staff concerns the Headteacher/Principal, the person receiving the allegation will immediately inform the Chair of Governors who will consult the Trust CEO with an intention of immediate referral to the relevant LADO, without notifying the Headteacher/Principal first.
2. In the event of an allegation against the Headteacher/Principal, the decision to suspend will be made by the Chair of Governors with advice from the LADO, Trust CEO (with support from the Trust HR Manager).
3. Ensures that an annual item is placed on Governors' agenda to report on changes to procedures, training, cases (without details or names) to inform the school's action plan detailing improvements arising from the review. This will include details of any review with the LADO of how suspension has been used in the school.

### Headteacher/Principal or alternative senior manager (the case manager)

1. Ensure the school follows the Local Safeguarding Children Board (LSCB) procedures for managing allegations against staff.
2. Support the individual to reduce stress and provide welfare counseling or medical advice if required.
3. Following agreement with the LA DO, Social Care Services, police and the Trust CEO, inform the parent/carer of the child or young person involved in the allegation if not already aware. The parent/carer should be kept informed of the progress of the investigation and any outcome, where there is not a criminal prosecution, including the disciplinary process.
4. Suspension of the member of staff, excluding the Headteacher/Principal, against whom an allegation has been made, needs careful consideration, and the Headteacher/Principal will seek the advice of the Chair of Governing Body, LADO, Trust CEO (with support from Human Resources).
5. As some allegations can arise through ignorance or ill advised behaviour, each school is required to establish and to include in induction and training, guidance for all staff and other adults on appropriate behaviour and boundaries in relation to working with children and young people.
6. Securely maintain clear, accurate records of all allegations, details of the investigation and the outcomes (except where a case is determined by the school and LADO to be malicious, in which case all records will be removed from the personnel file and destroyed).
7. Prepare an annual report to the Governing Body on allegations (including improvements made to procedures as a result of the review of the investigation, outcome or suspension process) and support the implementation of any action plan to secure necessary improvements from this review.
8. Where relevant, follow school procedures for managing the suspension of a contract for a community user in the event of an allegation arising in that context.

### Staff

1. If an allegation is made, or information is received which suggests that a person may be unsuitable to work with children, the member of staff receiving the allegation or aware of the information, is expected to immediately inform the Headteacher/Principal (or the Chair of the Governing Body in the case of an allegation against the Headteacher/Principal). The Headteacher/Principal (or Chair of Governors) on all such occasions will discuss the content of the allegation with the Trust CEO with a view to immediate contact with the LADO before taking action.
2. All school staff should not behave in a way or put themselves in situations which could be misconstrued/misinterpreted or where a child could be harmed. It is always advisable for interviews or work with individual children or parents/carers to be conducted in view of other adults.
3. All members of staff and employees are required to sign a Staff Code of Conduct which includes Safeguarding & Child Protection statements.

### **Physical Restraint**

Where the allegation relates to the use of restraint it is important to note that teachers may use reasonable force to restrain a pupil (in accordance with the Education and Inspections Act 2006). If it is clear that the restraint was 'reasonable' it will be appropriate for the Headteacher/Principal to deal with this at a school level. All such incidents must be reported, recorded, and discussed with the parents/carers as soon as possible. If there is any doubt, the Headteacher/Principal should contact the LADO for advice. An allegation that goes beyond the use of reasonable force will need to be referred as a child protection matter to the LADO.

If in doubt, the Headteacher/Principal should consult with the school's designated person for Safeguarding & Child Protection and LADO in the first instance, to demonstrate that the school has acted in an open and transparent manner in establishing if the allegation meets the threshold for referral.

If a child receives an injury following a restraint and/or the child, parent or carer makes an allegation of assault, this must be seen as a child protection matter and discussed with the LADO who will have a threshold discussion with police. Full recording of all restraints, and the action taken, must be made, and will assist the school if a future allegation is made.

### **Information Sharing**

In a multi-agency strategy discussion or initial evaluation of the case the Trust expects the school management to share all relevant information about the individual and the child or young person involved.

Where relevant, the school management is advised to request (usually at the first strategy meeting/discussion) that Police or Children's Social Care Services obtain consent from the individual involved to share statements and evidence for use in any employer disciplinary process to avoid delays at the conclusion of their investigations or any judicial (criminal or civil) case.

### **Confidentiality**

Each school is required to maintain confidentiality and guard against unwanted publicity whilst an allegation is being considered or investigated. Section 141F of the Education Act 2011 on reporting restrictions prevents 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. This applies 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 restrictions also cease to apply if the individual waives the right to anonymity by going public or providing written consent or a judge lifts restrictions in response to a request to do so.

Parents/carers involved in the allegation are to be made aware of the reporting restrictions and implications if breached and advised to take legal advice if an application to the court is required to have restrictions removed.

'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' including social media sites and posts by parents/carers.

The Headteacher/Principal (or alternative senior manager or Chair of Governors) should take advice from the LADO, Police, Children's Social Care Services and the Trust CEO to agree:

- who needs to know and the content of information shared
- how to manage speculation, leaks and gossip
- if any information can be provided to the wider community to reduce speculation
- how to manage press interest if required (with deference to Trust processes managed by the Trust CEO).

In the event of a case that may attract significant media / public attention, the relevant Local Safeguarding Children Board (LSCB) might also be involved in this discussion.

### **Referral to Disclosure and Barring Service (DBS) and other regulatory bodies**

The Trust and its schools recognize the legal requirement to make a referral to the DBS if an individual has harmed or poses a risk of harm to a child or young person or there is a reason to believe one of a number of listed offences has been committed and they have been removed from working in regulated activity or

would have been removed if they had not left. Any such reference should be based upon Human Resources advice provided by the Trust HR manager.

On conclusion of an investigation, if the allegation is substantiated the Headteacher/Principal (or alternative senior manager or Chair of Governors) discusses with the LADO and Trust HR Manager whether to make a referral to the DBS for consideration of inclusion on the barred list.

If an allegation is upheld against a teacher, a referral may also need to be made to the National College for Teaching & Leadership, to consider whether that person should be prohibited from teaching. Similarly, there are duties to make referrals to other regulatory bodies such as the Health Care Professionals Council (social workers, health care practitioners), etc.

### **Resignations and Settlement Agreements**

The process of reaching a judgement and recording the allegation and any supporting evidence remains the same even if:

- the individual resigns or ceases to provide services or;
- the individual refuses to cooperate despite being given the opportunity to respond to an allegation and make representations.

A settlement agreement where an individual agrees to resign if the Trust as employer agrees not to pursue disciplinary action and both parties agree the words to be used in future references, is not feasible if:

- the criteria to make a DBS or other regulatory body referral are met (see previous section);
- the individual refuses to cooperate;
- the individual resigns before the notice period expires.

### **Record Keeping & References**

All allegations are to be securely recorded in the individual's personnel files and a copy provided to the individual. The record must include a comprehensive summary of investigations, outcomes, any actions taken and decisions reached to enable accurate information to be given in response to any future request for a reference and providing clarification for future DBS checks.

The Trust has a statutory duty to ensure any allegations that are found to be malicious to be removed from the records. Malicious allegations will not be referred to in employer references. Also any allegations or history of repeated concerns or allegations proven to be false, unsubstantiated or malicious should not be included in employer references.

Each school is required to comply with the ICO (Information Commissioners Office) Employment Practices Code and the Trust Data Security, Protection and Retention Policy and Data Retention Protocol and maintain records until the individual has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

However, for the duration of the Independent Inquiry into Child Sexual Abuse (IICSA) (the Jay Inquiry), it is unlawful to destroy any records or information that could be called as evidence to the inquiry. As a result, the ICO has agreed that normal retention schedules will be waived for any records relating to allegations that a child has been sexually abused in a school or other institution.

### **Timescales**

The time taken to investigate and resolve allegations will depend on individual cases and is expected to be a high priority for a school management, however, target timescales are:

Details	Timescale
Where it is immediately clear that the allegation is unsubstantiated or malicious	Resolved within one week
If the nature of the allegation does not require formal disciplinary action	Institute appropriate action within 3 working days
If a disciplinary hearing is required and can be held without further investigation	Hold the hearing within 15 working days
Where deemed to suspend the individual (see section on 'Suspension')	Written confirmation dispatched within 24 hours with a named member of staff for the individual to contact for support
80% of all investigated cases	Resolved within one month
90% of all investigated cases	Resolved within three months
All investigated cases (excluding exceptional cases)	Resolved within 12 months

## **Suspension**

The Headteacher/Principal (or alternative senior manager or Chair of Governors) should 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. Suspension should only be considered if:

- a child or young person at the school is at risk of harm;
- the case is so serious it may be grounds for dismissal;
- the Secretary of State has made an interim prohibition order.

If the LADO, Police and Children's Social Care Services have no objection to the individual continuing work the following alternatives to suspension may be considered, following a school management risk assessment:

- redeployment within the school to ensure the individual does not have direct contact with the child or young person concerned;
- providing an assistant when the individual is in contact with children;
- redeployment within the school so the individual does not have unsupervised access to children;
- moving the child or young person to classes where they will not come into contact with the individual making it clear it is not a sanction and parents have been consulted;
- temporary redeployment to an alternative school within the Trust.

If suspension is deemed appropriate by the Headteacher/Principal (or alternative senior manager or Chair of Governors) following agreement with the LADO and advice from the Trust HR Manager (note the LADO, police or Children's Social Care Services cannot require the school to suspend staff), the rationale and justification must be recorded, reported to the Governing Body including the reasons for rejecting the above possible alternatives.

If an employee returns to work following suspension, help and support is to be provided, including a potential short-term provision of a mentor and managing contact with the child or young person concerned to reduce stress. A phased return may also be considered by school management. The school must review with the LADO whether the suspension was appropriate, and record the outcome of this review in writing.

## **Malicious or False Allegations**

If an allegation is deemed to be malicious or false, the case may require further investigation by Children's Social Care Services to determine whether the child requires their services or is being abused by another individual.

Disciplinary action against the child or young person or member of staff may also be considered if the allegation is found to be malicious. The school could also ask the police to take action against a person making a malicious allegation.

NB A malicious allegation is not the same as a false allegation.

## **Whistleblowing**

### **See also the Trust's Whistleblowing policy**

The Trust expects each school to recognise that children cannot be expected to raise concerns in an environment where staff fail to do so.

All staff should be aware of their duty to raise concerns, where they exist, about the management of safeguarding and child protection, which may include the attitude or actions of colleagues. If it becomes

necessary to consult outside the school, they should speak in the first instance, to the School's established Independent Visitor and/or the Local Authority LADO following the Trust Whistleblowing Policy. Alternatively, the person with concerns can contact the Trust HR officer or the NSPCC whistleblowing helpline 0800 028 0285

Whistleblowing concerns related to the Headteacher/Principal should be made to the Chair of the Governing Body, or to trust HR, the local authority LADO or NSPCC whistleblowing helpline as described above.