

The Kingston Academy



Allegations of Abuse Made Against Teachers and Other Staff Policy

May 2018

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Allegations of Abuse Made Against Teachers and Other Staff Policy

1. Scope of this Policy

It is a statutory requirement for schools to have a statement of procedures for dealing with allegations of abuse against staff. This Policy is based on the DfE guidance '[Keeping Children Safe in Education](#)' (September 2016) and is about managing cases of allegations that might indicate a person would pose a risk of harm if they continue to work in regular or close contact with children in their present position, or in any capacity. It should be used in respect of all cases in which it is alleged that a teacher or member of staff (including agency/supply staff and unpaid staff and volunteers at the Academy) 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; or
- behaved towards a child or children in a way that indicates he or she would pose a risk of harm to children.

These behaviours should be considered within the context of the four categories of abuse: physical, sexual, emotional abuse and neglect.

This Policy relates to members of staff who are currently working at the Academy, regardless of whether the Academy is where the alleged abuse took place. Allegations against a teacher who is no longer teaching should be referred to the police. Historical allegations of abuse should also be referred to the police.

2. Initial action by the person receiving or identifying an allegation or concern

The person to whom an allegation or concern is first reported should treat the matter seriously and keep an open mind. They should not:

- investigate or ask leading questions if seeking clarification;
- make assumptions or offer alternative explanations;
- promise confidentiality, rather they should give assurance that the information will only be shared on a 'need to know basis'.

They should:

- make a written record of the information (where possible in the child's own words) on CPOMS (or where this cannot be accessed for any reason using the school's Concern Form), including the time, date and place of incident/s, persons present and what was said/happened; and
- sign and date the written record (if using a Concern Form); and
- immediately report the matter to the Designated Safeguarding Lead using the procedures set out in the Safeguarding and Child Protection Policy (a copy is available on the [policy page](#) of our website and in the Policies Folder on the Whole School Team Drive).

3. Initial action by the Designated Safeguarding Lead

The procedures for dealing with allegations need to be applied with common sense and judgment. When informed of a concern or allegation, the Designated Safeguarding Lead should not initially investigate the matter or interview the member of staff, child concerned or potential witnesses. They should:

- obtain the written details of the concern / allegation, signed and dated by the person receiving (not the child / adult making the allegation);
- record any information about times, dates and location of incident/s and names of any potential witnesses;
- record any discussions about the child and/or member of staff, any decisions made, and the reasons for those decisions.

The Local Authority Designated Officer (LADO) should be immediately informed when any allegation appears to meet the criteria listed in section 1 above. Such referrals should not be delayed in order to gather information.

In the first instance, the Head teacher (**Note: where the Head teacher is the subject of the allegation, the Chair of the Trust Board will step in and take on the Head teacher's role as set out in these procedures**) should discuss the allegation with the LADO. The purpose of this initial discussion is to consider the nature, content and context of the allegation and agree a course of action. To gain an overview, the LADO may ask the Head teacher to provide or obtain relevant additional information, such as previous history, whether the child or their family have made similar allegations previously and the individual's current contact with children.

This 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 should be recorded by both the Head teacher and the LADO, and agreement reached on what information should be put in writing to the individual concerned and by whom. This record must be retained by the Head teacher (or where the allegation relates to the Head teacher by the Chair of the Trust Board) in accordance with section 11 below 'Record Keeping'. The Head teacher should then consider with the LADO what action, including disciplinary action, should follow both in respect of the individual and those who made the initial allegation.

The Head teacher should inform the accused person about the allegation as soon as possible after consulting the LADO. It is extremely important that the Head teacher provides them with as much information as possible at that time. However, where a strategy meeting (see paragraph below) is needed, or police or children's social care services need to be involved, the Head teacher should not do that until those agencies have been consulted, and have agreed what information can be disclosed to the accused.

If there is cause to suspect that a child is suffering or is likely to suffer significant harm, the LADO will immediately refer to children's social care and ask for a strategy meeting to be convened in accordance with the statutory guidance Working Together to Safeguard Children (March 2015 as updated February 2017).

4. Suspension

The Head teacher will consider carefully whether the circumstances of a case warrant a person being suspended from contact with children at the school until the allegation or concern is resolved. An individual should only be suspended if there is no reasonable alternative. Suspension should be considered only in a case where there is cause to suspect a child or other children at the school are at risk of harm or the case is so serious that it might be grounds for dismissal. Suspension should not be the default option, but if used the reasons and justification will be recorded by the school and the individual notified of the reasons. The strategy meeting may advise a school to suspend, but the actual decision will rest with the Head teacher.

Based on assessment of risk, the following alternatives should be considered by the Head teacher before suspending a member of staff:

- redeployment within the school or college so that the individual does not have direct contact with the child or children concerned;
- providing an assistant to be present when the individual has contact with children;
- redeployment 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 member of staff, making it clear that this is not a punishment and parents have been consulted;
- temporarily redeploying the member of staff to another school in a different location.

5. Strategy Meeting

The meeting will normally include the LADO or their representative, a child protection adviser from children's services, the Head teacher, the school's HR and depending on the circumstances the police and legal services. Other relevant individuals may be invited depending on the circumstances. If the allegation is about physical contact, the strategy meeting or initial evaluation with the police should take into account that teachers and other school staff are entitled to use reasonable force to control or restrain children in certain circumstances, including dealing with disruptive behaviour.

Where the initial consideration or strategy meeting decides the allegation does not involve a possible criminal offence or require a children's services investigation it should be dealt with by the school. In such cases if the nature of the allegation does not require formal disciplinary action, appropriate action should be instituted within three working days. If a disciplinary hearing is required and can be held without further investigation the hearing should be held within 15 working days.

If the strategy meeting decides a Section 47 enquiry or police investigation is required any unilateral action by the school will need to be suspended, unless otherwise agreed, until their investigations are complete. Protocols for sharing information with the police or children's services investigation will need to be agreed, especially as a common outcome will be to refer the issue back to the school to consider as a disciplinary issue.

Where further investigation is required to inform consideration of disciplinary action, the Head teacher should discuss who will undertake that with the LADO. In some circumstances it may be appropriate for the disciplinary investigation to be conducted by a person who is independent of the school to ensure objectivity. In any case the investigating officer should aim to provide a report to the Head teacher within 10 working days of starting the investigation.

The following definitions should be used when determining the outcome 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;
- **False:** there is sufficient evidence to disprove the allegation;
- **Unsubstantiated:** there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence; or
- **Unfounded:** there is no evidence or proper basis which supports the allegation. The term, might also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively, they may not have been aware of all of the circumstances.

6. 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. Target timescales are shown below: the time taken to investigate and resolve individual cases depends on a variety of factors including the nature, seriousness and complexity of the allegation, but these targets should be achieved in all but truly exceptional cases:

- it is expected that 80 per cent of cases should be resolved within one month,
- 90 per cent within three months; and
- all but the most exceptional cases should be completed within 12 months.

For those cases where it is clear immediately that the allegation is unsubstantiated or malicious, they should be resolved within one week.

7. Oversight and monitoring

The LADO has overall responsibility for oversight of the procedures for dealing with allegations; for resolving any inter-agency issues; and for liaison with the Local Safeguarding Children Board (LSCB). The LADO will provide advice and guidance to the Head teacher, in addition to liaising with the police and other agencies, and monitoring the progress of cases to ensure that they are dealt with as quickly as possible consistent with a thorough and fair process. Reviews should be conducted at fortnightly or monthly intervals, depending on the complexity of the case.

8. Supporting those involved

As an employer the Trust has a duty of care to its employees and will ensure effective support is provided for anyone facing an allegation. Action will be taken to manage and minimise the stress inherent in the allegations and disciplinary process. Support for the individual is key to fulfilling this duty. Individuals will be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action, unless there is an objection by the local authority social care services or the police. The individual will be advised to contact their trade union representative, if they have one, or a colleague for support. When appropriate they should also be given access to welfare counseling or medical advice (where this is provided by the Trust).

The Head teacher will appoint a named representative to keep the person who is the subject of the allegation informed of the progress of the case and consider what other support is appropriate for the individual. Particular care will be taken when employees are suspended to ensure that they are kept informed of both the progress of their case and current work related issues. Social contact with colleagues and friends will not be prevented, unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

Parents or carers of a child or children involved should be told about the allegation as soon as possible if they do not already know of it. However, where a strategy meeting is required, or police or local authority children's social care services need to be involved, the Head teacher should consult those agencies and agree what information can be disclosed to the parents. They 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 will be told the outcome in confidence. Parents and carers will also be made aware of the prohibition on reporting or publishing allegations about teachers in section 141F of the Education Act 2002 (as amended). If parents or carers wish to apply to the court to have reporting restrictions removed, they will be told to seek legal advice.

9. Confidentiality

When an allegation is made, the school will make every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. The Head teacher will take advice from the LADO, police and local authority 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.

From 1st October 2012 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. The reporting restrictions apply until the point that the accused person is charged with an offence.

The Education Act 2011 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).

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, for example an appeal to trace a suspect, they must apply to a magistrates’ court to request that reporting restrictions be lifted.)

10. Resignations and Settlement agreements

The fact that a person tenders his or her resignation or ceases to provide their services must not prevent an allegation being followed up in accordance with this Policy. Settlement agreements, by which a person agrees to resign if the school agrees not to pursue disciplinary action, will not be used in these cases. **A referral to the DBS and/or to the Teaching Regulation Agency (TRA) must be made if the criteria described in section 15 below are met.** The TPA is responsible for investigating allegations of serious misconduct against teachers and headteachers in schools in England. If appropriate, the TRA can prohibit a teacher from teaching in schools, relevant youth accommodation, sixth form colleges and children’s homes in England. A referral to the TPA is appropriate if the alleged misconduct is so serious that it warrants a decision on whether the teacher should be prevented from teaching. The TRA can put an interim prohibition order in place to prevent a teacher from teaching until their case has been fully investigated.

11. Record Keeping

Details of allegations that are found to have been malicious will be removed from personnel records. However, for all other allegations, it is important 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 a person’s confidential personnel file, and a copy provided to the person concerned. This confidential personnel file will be held by the Head teacher separately from the main personnel file (or by the Chair of the Trust Board where an allegation relates to the Head teacher) and all such confidential personnel files will be stored securely (whether paper or electronic files) and transferred directly to their successor when the Head teacher (or Chair) leaves office.

The 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 and it will help to prevent unnecessary re-investigation if, as sometimes happens, an

allegation re-surfaces after a period of time. The record should be retained at least until the person has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

12. References

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

13. Information sharing

In a strategy meeting or the initial evaluation of the case, the agencies involved should share all relevant information they have about the person who is the subject of the allegation, and about the alleged victim.

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

Children's social care services should be asked to adopt a similar procedure when making enquiries to determine whether the child or children named in the allegation are in need or protection or services, so that any information obtained in the course of those enquiries which is relevant to a disciplinary case can be passed to the Head teacher without delay.

14. Action following a criminal investigation or a prosecution

The police or the Crown Prosecution Service (CPS) should inform the school and LADO straight away when a criminal investigation and any subsequent trial is complete, or if it is decided to close an investigation without charge, or not to continue to prosecute the case after the person has been charged. In those circumstances the LADO should discuss with the Head teacher whether any further action, including disciplinary action, is appropriate and, if so, how to proceed.

15. Action on conclusion of a case

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 LADO should discuss with the Head teacher whether a referral should be made to the Disclosure and Barring Service (DBS) for consideration of inclusion on the barred lists and /or (for teachers) to the Department of Education:

The Teaching Regulation Agency (TRA), acting on behalf of the Secretary of State for Education, is responsible for investigating allegations of serious misconduct against teachers and headteachers in schools in England.

If appropriate, TRA can prohibit a teacher from teaching in schools, relevant youth accommodation, sixth form colleges and children's homes in England. Employers have a statutory duty to consider referral of cases involving serious professional misconduct to TRA where a teacher has been dismissed for misconduct, or would have been dismissed had they not resigned.

There is also a legal requirement for employers to make a referral to the DBS where they 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. In such circumstances, the duty to refer an individual to the DBS arises where an employer has 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. Professional misconduct cases should be referred to the relevant regulatory body. The DBS will consider whether to bar the person from working in regulated activity, which will include work in schools and other educational establishments. Local authorities and schools and other bodies all have a statutory duty to make reports, and to provide relevant information to the DBS. Referrals should 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.

Where it is decided on the conclusion of a case that a person who has been suspended can return to work, the Head teacher will consider how best to facilitate that. Most people will benefit from some help and support to return to work after a stressful experience. Depending on the individual's circumstances, a phased return and/or the provision of a mentor to provide assistance and support in the short term may be appropriate. The Head teacher will also consider how the person's contact with the child or children who made the allegation can best be managed if they are still at the school.

16. In respect of malicious or unsubstantiated allegations

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

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 Head teacher to determine whether there are any improvements to be made to the Academy's procedures or practice to help prevent similar events in the future. This should 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. The LADO

and Head teacher will consider how future investigations of a similar nature could be carried out without suspending the individual.

This policy will be reviewed at least every three years (or sooner if required by a change of circumstances or legislation or guidance) by a member of the senior leadership team and by the Kingston Educational Trust.

The next review is due May 2021.

Date: 22 May 2018

Signed:

Sue Conder, Chair Pupil Welfare and Community Committee, Kingston Educational Trust

Sophie Cavanagh, Head Teacher