



# Management of Allegations Made Against Staff

## Linked Policies/Protocols

- Whistleblowing Policy
- Code of Conduct
- Disciplinary Procedure

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| <b>Approved/Reviewed:</b> October 2021  | <b>Next review due:</b> October 2022 |
| <b>Governing Body Committee:</b> HRF  | <b>CLT contact:</b> Jeremy Plumb     |
| <b>Policy adopted by the Full Governing Body on:</b> 10 <sup>th</sup> November 2021 |                                      |

## Policy – Amendment Record Sheet

| <b>Amendment Number</b> | <b>Section Amended</b> | <b>Amended By</b> | <b>Reason for Amendment</b>                                       | <b>Date</b> |
|-------------------------|------------------------|-------------------|---|-------------|
| 01                      | Whole policy           | Jo Jones          | Appendix 3 taken from the model Child Protection Policy – The Key | 26.10.21    |
| 02                      |                        |                   |   |             |
| 03                      |                        |                   |   |             |
| 04                      |                        |                   |   |             |
| 05                      |                        |                   |   |             |
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## **Section One**

### **Allegations that may meet the harms threshold**

This policy is based on 'Allegations that may meet the harms threshold' in part 4 of Keeping Children Safe in Education.

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

- Behaved in a way that has harmed a child, or may have harmed a child, and/or
- Possibly committed a criminal offence against or related to a child, and/or
- Behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children, and/or
- 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 College

The College 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 full formal investigation into any concerns or allegations regarding the conduct of a member of staff will be conducted by the immediate line manager in most cases, or a senior member of staff nominated by the Headteacher, as the Investigating Officer.

### **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, the College will only suspend an individual if they have considered all other options available and there is no reasonable alternative.

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

- Redeployment within the 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
- Redeploying the individual to alternative work in the College 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 local authority.

If in doubt, the Investigating Officer will seek views from the College's HR adviser and the designated officer at the local authority, as well as the police and 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 which supports the allegation being made.

## Procedure for dealing with allegations

In the event of an allegation that meets the criteria above, the Investigating Officer 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 children's social care services. (The Investigating Officer 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 Investigating Officer will notify the designated officer as soon as practicably possible after contacting the police)
- 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 children's social care services, where necessary). Where the police and/or children's social care services are involved, the Investigating Officer will only share such information with the individual as has been agreed with those agencies
- Where appropriate (in the circumstances described above), carefully consider whether suspension of the individual from contact with children at the College 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 children's social care services, as appropriate
- Where the Investigating Officer 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 children's social care
- **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, and the individual will be given a named contact at the College and their contact details

- **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
- **If it is decided that further action is needed**, take steps as agreed with the designated officer to initiate the appropriate action in College, in accordance with the College's Disciplinary Procedure and/or liaise with the police and/or children's social care services as appropriate
- 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. Support could include who they can turn to for advice such as trade union representatives, or a colleague, for example – a welfare counselling or medical advice body
- Where appropriate, 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 children's social care services and/or the police, if applicable). The Investigating Officer 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
- Where appropriate, 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)
- 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 College is made aware that the secretary of state has made an interim prohibition order in respect of an individual, the College 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 College 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 College'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 College, such as a supply teacher or contracted staff member provided by an agency, the College will take the actions below in addition to our standard procedures.

- The College will not decide to stop using an individual due to safeguarding concerns without finding out the facts and liaising with the LADO to determine a suitable outcome
- The Governing Body will discuss with the agency whether it is appropriate to suspend the individual, or redeploy them to another part of the College, while the College carries out the investigation

- The College will involve the agency fully, but the College will take the lead in collecting the necessary information and providing it to the LADO as required
- The College will address issues such as information sharing, to ensure any previous concerns or allegations known to the agency are taken into account (the College 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, the College will inform them of their 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

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

- Any cases where it is clear immediately that the allegation is unsubstantiated or malicious should be resolved as soon as possible
- If the nature of an allegation does not require formal disciplinary action, appropriate action should be taken as soon as possible
- In the event of formal disciplinary action being taken the staff member will be requested, in writing, to attend a disciplinary hearing. In most cases, **a minimum of 2 calendar weeks' notice** will be given in order to allow the member of staff reasonable time to prepare their case. In certain circumstances, this period can be curtailed if all parties agree at the outset and in the best interests of the employee. The member of staff will be advised in writing of the right to be represented by a workplace colleague or (recognised) trade union representative
- However, these are objectives only and where they are not met, the College will endeavour to take the required action as soon as possible thereafter.

## Specific actions

### Action following a criminal investigation or prosecution

The Investigating Officer 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 children's social care services.

### Conclusion of a case where the allegation is substantiated

If the allegation is substantiated and the individual is dismissed or the College ceases to use their services, or the individual resigns or otherwise ceases to provide their services, the College 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 College will consider whether to refer the matter to the Teaching Regulation Agency to consider prohibiting the individual from teaching.

## **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 Investigating Officer will consider how best to facilitate this.

The Investigating Officer 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 College.

## **Unsubstantiated, unfounded, false or malicious reports**

If a report is:

- Determined to be unsubstantiated, unfounded, false or malicious, the DSL 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 children's social care may be appropriate
- Shown to be deliberately invented, or malicious, the College will consider whether any disciplinary action is appropriate against the individual(s) who made it.

## **Unsubstantiated, unfounded, false or malicious allegations**

If an allegation is:

- Determined to be unsubstantiated, unfounded, false or malicious, the LADO and Investigating Officer 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 children's social care may be appropriate
- Shown to be deliberately invented, or malicious, the College will consider whether any disciplinary action is appropriate against the individual(s) who made it.

## **Confidentiality and information sharing**

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

The Investigating Officer will take advice from the LADO, police and children's social care services, as appropriate, to agree:

- 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.

## **Record-keeping**

The Investigating Officer 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 College will provide a copy to the individual, in agreement with children's social care or the police as appropriate.

Where records contain information about allegations of sexual abuse, the College will preserve these for the Independent Inquiry into Child Sexual Abuse (IICSA), for the term of the inquiry. The College will retain all other records at least until the individual has reached normal pension age, or for 10 years from the date of the allegation if that is longer.

## **References**

When providing employer references, the College will:

- Not refer to any allegation that has been found to be false, unfounded, unsubstantiated or malicious, or any repeated allegations which 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 Investigating Officer will review the circumstances of the case with the local authority's designated officer to determine whether there are any improvements that the College can make to their procedures or practice to help prevent similar events in the future.

## **Non-recent allegations**

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

The College 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 College that they were abused as a child, the College will advise the individual to report the allegation to the police.

## **Section Two:**

### **Concerns that do not meet the harm threshold**

The section is based on 'Section 2: Concerns that do not meet the harm threshold' in part 4 of Keeping Children Safe in Education.

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 one above.

Concerns may arise through, for example:

- Suspicion
- Complaint
- Disclosure made by a child, parent or other adult within or outside the College
- Pre-employment vetting checks
- The College recognises the importance of responding to and dealing with any concerns in a timely manner to safeguard the welfare of children.

### **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 College may have acted in a way that:

- Is inconsistent with the staff code of conduct, including inappropriate conduct outside of work, **and**
- 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:

- Being overly friendly with children
- Having favourites
- Taking photographs of children on their mobile phone
- Engaging with a child on a one-to-one basis in a secluded area or behind a closed door
- Using inappropriate sexualised, intimidating or offensive language.

### **Sharing low-level concerns**

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

The College will create this culture by:

- 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
- Empowering staff to share any low-level concerns
- Empowering staff to self-refer
- Addressing unprofessional behaviour and supporting the individual to correct it at an early stage

- Providing a responsive, sensitive and proportionate handling of such concerns when they are raised
- Helping to identify any weakness in the College's safeguarding system.

### **Responding to low-level concerns**

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

- Directly to the person who raised the concern, unless it has been raised anonymously
- 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 College's staff code of conduct
- Keeping Children Safe in Education also links to this report for more information [Developing and implementing a low-level concerns policy: A guide for organisations which work with children](#)]

### **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:

- Kept confidential, held securely and comply with the DPA 2018 and UK GDPR
- Reviewed so that potential patterns of concerning, problematic or inappropriate behaviour can be identified. Where a pattern of such behaviour is identified, the College will decide on a course of action, either through their disciplinary procedures or, where a pattern of behaviour moves from a concern to meeting the harms threshold as described in section 1 of this appendix, the College will refer it to the designated officer at the local authority
- Retained at least until the individual leaves employment at the College
- Where a low-level concern relates to a supply teacher or contractor, the College will notify the individual's employer, so any potential patterns of inappropriate behaviour can be identified.

### **References**

The College will not include low-level concerns in references unless:

- 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
- The concern (or group of concerns) relates to issues which would ordinarily be included in a reference, such as misconduct or poor performance.