Managing Allegations Against Staff Policy

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CONTENTS

Statement of Intent

1. Legal framework
2. Definitions
3. Initial allegation made to the trust
4. Supply staff
5. Initial consideration
6. Action following initial consideration
7. Cases where a crime may have been committed
8. Immediate referrals to children's social care service or the police
9. Suspension
10. Strategy Meeting
11. Communication following the strategy meeting
12. Monitoring progress
13. Referral to DBS
14. Keeping records
15. Confidentiality
16. False and unsubstantiated allegations
17. Non recent allegations
18. Learning lessons
19. Returning to work
20. Information sharing
21. Resignations and 'compromise or settlement agreements'
22. Supporting those involved
23. Monitoring and Review

Appendices:

Appendix 1 – Information guide for employees facing allegations

Statement of Intent

The Omega Multi-Academy Trust ("the Trust") takes its responsibility of care for pupils seriously. We will thoroughly investigate allegations against staff – this will be done in a fair way that does not prejudice either the pupil or the member of staff. Any investigation of an allegation of abuse will be made in line with this policy and we will provide both the accuser and accused with the support they require during the investigation.

The stipulations within this policy apply to all staff (including supply staff) and volunteers currently working in school, irrelevant of whether the school is the location of the abuse. Allegations against a teacher who is no longer teaching will be referred to the police, along with any historical allegations.

1. Legal Framework

1.1. This policy has due regard to all relevant legislation and statutory guidance including, but not limited to, the following:

- Children Act (1999)
- Education Act (2002
- Children Act (2004)
- Data Protection Act (2018)
- UK General Data Protection Regulation (UK GDPR)
- DfE (2018) 'Working Together to Safeguard Children'

1.2. This policy operates in conjunction with the following trust policies:

- Child Protection and Safeguarding Policy
- Behaviour Policy
- Disciplinary Policy and Procedure
- Whistleblowing Policy
- Grievance Policy

2. Definitions

2.1. **Significant Harm:** This is the threshold where compulsory social care intervention must take place – this was introduced by the Children Act 1989. Harm includes not only ill-treatment (including sexual abuse and non-physical forms of ill treatment), but also the impairment of physical or mental health and the impairment of physical, emotional, social or behaviour development.

2.2. **Abuse:** Abuse is a form of maltreatment of a child. Somebody may abuse or neglect a child by inflicting harm, or by failing to act to prevent harm. They may be abused by an adult or adults or another child or children, and abuse can be either physical, sexual, emotional harm, or a form of neglect. The definitions of different types of abuse are below:

2.2.1. **Physical Abuse**: A form of abuse which may involve hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating, or otherwise causing physical harm to a child. Physical harm may also be caused when a parent fabricates the symptoms of, or deliberately induces, illness in a child.

2.2.2. **Emotional Abuse**: The persistent emotional maltreatment of a child such as to cause severe and adverse effects on the child's emotional development. It may involve conveying to a child that they are worthless, unloved, inadequate, or valued only insofar as they meet the needs of another person. It may include not giving the child opportunities to express their views, deliberately silencing them or 'making fun' of what they say or how they communicate. It may feature age or developmentally inappropriate expectations being imposed on children. These may include interactions that are beyond a child's developmental capability as well as overprotection and limitation of exploration and learning, or preventing the child participating in normal social interaction. It may involve seeing or hearing the ill-treatment of another. It may involve serious bullying (including cyber bullying), causing children frequently to feel frightened or in danger, or the exploitation or corruption of children. Some level of emotional abuse is involved in all types of maltreatment of a child, although it may occur alone.

2.2.3. **Sexual Abuse**: Involves forcing or enticing a child or young person to take part in sexual activities, not necessarily involving a high level of violence, whether or not the child is aware of what is happening. The activities may involve physical contact, including assault by penetration (for example rape or oral sex) or non-penetrative acts such as masturbation, kissing, and rubbing and touching the outside of clothing. They may also include non-contact activities, such as involving children in looking at, or the production of, sexual images, watching sexual activities, encouraging children to behave in sexually inappropriate ways, or grooming a child in preparation for abuse (including via the internet). Sexual abuse is not solely perpetrated by adult males. Women can also commit acts of sexual abuse, as can other children.

2.2.4. **Neglect**: The persistent failure to meet a child's basic physical and/or psychological needs, likely to result in the serious impairment of the child's health or development. Neglect may occur during pregnancy as a result of maternal substance abuse. Once a child is born, neglect may involve a parent or carer failing to: provide adequate food, clothing and shelter (including exclusion from home or abandonment); protect a child from physical and emotional harm or danger; ensure adequate supervision (including the use of inadequate care-givers); or ensure access to appropriate medical care or treatment. It may also include neglect of, or unresponsiveness to, a child's basic emotional needs.

2.3. **Position of Trust**: Those working with children and young people should understand that they are in positions of power and trust in relation to these groups. There is potential for exploitation and harm to children and young

people, and employees have a responsibility to ensure that an unequal balance of power is not used for personal advantage or gratification. Employees should always maintain professional boundaries and avoid behaviour which might be misinterpreted by others.

2.4. The following definitions will be used when determining the outcome of allegation investigations:

2.4.1. **Substantiated:** there is sufficient evidence to prove the allegation.

2.4.2. **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive.

2.4.3. **False:** there is sufficient evidence to disprove the allegation.

2.4.4. **Unsubstantiated:** there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

2.4.5. **Unfounded:** to reflect cases where there is no evidence or proper basis which supports the allegation being made.

2.5. **Publication:** 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.

3. Initial Allegation Made to the Trust

3.1. For the purpose of this policy, **'allegation'** refers to where a member of staff is accused of abusing a pupil. Allegations may be received in a variety of ways including:

3.1.1 Direct complaint by a student to another staff member

3.1.2 Direct complaint by a parent/carer to another staff member

3.1.3 Concerns raised by third parties who may have been told about or witnessed abuse

3.1.4 Direct contact by parent / carer to the local authority, or other external agency

3.1.5 Anonymous referral

3.1.6 direct complaint to the assessment team or the Police

3.2. All allegations against any adult working or volunteering within the Trust, including staff, supply staff, students on placements, volunteers, Trustees, Governors or Contractors, must be reported to the named '**Case Manager'**. The **'Case Manager'** will be responsible for deciding in conjunction with the Local Authority Designated Officer (LADO) the course of action of each allegation. If there is any doubt as to whether a concern meets the harm threshold, we will consult our Director of Safeguarding and People Services and/or the Local Authority Designated Officer (LADO). **All** allegations that meet the **'Harm'** threshold **must** be reported to the LADO within 24 hours of receipt of the concern

3.2.1 The table below sets out who an allegation should be reported too:

Allegation Made against	**Responsible Case Manager**
All adults working within a Trust school	Headteacher of the individual school
Headteacher	Chair of LGB / CEO of Trust
LGB Members	Chair of LGB
Chair of LGB	Chair of Trust Board
Trustee	Chair of Trust Board
Chair of Trust Board	Vice Chair of Trust Board / CEO of Trust
CEO of Trust	Chair of Trust Board
Members of the Trust Executive Team	CEO of Trust
Central Trust staff members	Director of Safeguarding and People Services
Supply Staff	Headteacher and Supply Agency Safeguarding Lead/Manager

Third Party Organisations	Headteacher/CEO/Organisations Manager

In exceptional cases where the responsible 'Case Manager' is unavailable for example due to long term absence, the individual responsible for deputising for them will become the 'Case Manager'

3.3. Should the initial allegation first be made to any other member of staff, then that member of staff must ensure the person raising the allegation reports it to the Case Manager or, if that is not possible, must pass on details of the allegation to the relevant person themselves.

3.4. Allegations should be reported to the LADO immediately if anyone working in the trust has:

3.4.1. Behaved in a way that has harmed a child, or may have harmed a child.

3.4.2. Possibly committed a criminal offence against or related to a child.

3.4.3. Behaved towards a child or children in a way that indicates that they pose or may pose a risk to children.

3.4.4. Behaved or may have behaved in a way that indicates they may not be suitable to work with children.

3.5. Where the allegation is extremely serious, e.g. where a pupil's life may be in danger, immediate intervention by the police or children's social care services will be required.

3.6. Allegations will be investigated in a fair and consistent way that provides effective protection for the child and, at the same time, supports the staff member (including supply staff) or volunteer who is the subject of the allegation.

4. Supply Staff

4.1. In some cases, the trust will need to consider an allegation against an individual not directly employed by the trust, where the trust's disciplinary procedures do not fully apply, e.g. supply staff provided by an employment agency or business. The trust will work with the agency to ensure allegations are dealt with properly.

4.2. Under no circumstances will the trust decide to cease to use a member of supply staff due to safeguarding concerns without finding out the facts and liaising with the LADO to determine a suitable outcome.

4.3. The Case Manager will discuss with the agency whether it is appropriate to suspend the member of supply staff, or redeploy them to another part of the trust, whilst an investigation is conducted**.**

4.4. The trust will take the lead on investigations, as supply staff, while not directly employed by the trust, are under the supervision, direction and control of the trust when working in one of its establishments. Agencies will be fully involved in any investigation and will be expected to fully cooperate with enquiries from the LADO, police and/or children's services.

4.5. The member of supply staff subject to an allegation will be advised to contact their trade union representative, if they have one, or colleague for support.

4.6. The allegations management meeting will address issues, such as information sharing, to ensure that any previous concerns or allegations known to the agency are taken into account by the trust during the investigation.

4.7. An agency used by the trust will be informed of the trust's process for managing allegations. This will include inviting the agency's HR manager or equivalent to meetings and keeping them up-to-date with information about the trust's policies.

5. Initial Consideration

5.1. The Case Manager will discuss the allegation with the LADO, providing details of the allegation and the circumstances in which it was made. The discussion will also consider whether there is evidence or information that establishes whether the allegation is false or unfounded.

5.2. The Case Manager and LADO will take into account the right of staff to use reasonable force when dealing with instances of physical contact, such as disruptive behaviour, when considering allegations.

5.3. Where there is no likely involvement of the police or child social care services, the Case Manager will inform the accused person LADO – as much information as possible will be shared with the accused.

5.4. Where there is involvement of the police or child social care services, or a strategy discussion is required, the Case Manager will consult with them before disclosing any information with the accused.

5.5. If the allegation is not clearly false and there is cause to suspect that a child is suffering, or is likely to suffer, significant harm, the LADO will immediately refer it to LA children's social care or police and ask for a strategy discussion, in accordance with 'Working Together to Safeguard Children', to be convened straight away. In those circumstances, the strategy discussion will include the LADO and the Case Manager.

5.6. If there is not cause to suspect that 'significant harm' is an issue, but a criminal offence might have been committed, the LADO will immediately inform the police and convene a similar discussion to decide whether a police investigation is needed. That discussion will also involve the trust and any other agencies involved with the child.

5.7. If the initial sharing of information and evaluation leads to no further action being taken, the decision and justification for it will be recorded by both the Case Manager and the LADO. An agreement on what information should be put in writing to the individuals concerned and any follow-up actions will also be reached

6. Action Following Initial Consideration

6.1. All allegations will be investigated without delay and they will be resolved as quickly as possible.

6.2. Where the Case Manager and LADO decides that the allegation does not involve a possible criminal offence, the LADO will deal with it.

6.3. If the nature of the allegation does not require formal disciplinary action, the Case Manager will institute appropriate action as soon as possible.

6.4. If a disciplinary hearing is required and can be held without further investigation, the hearing will be held as soon as possible.

6.5. Where further investigation is required, the Case Manager and LADO will discuss who will undertake the investigation and how it will be conducted.

6.6. Following a thorough investigation the Investigating Officer will provide a report to the Case Manager to detail the case. On receipt of the report of the investigation, the Case Manager will consult the LADO and decide whether a disciplinary hearing is needed. If a hearing is needed, it will be held as soon as possible.

6.7. The LADO will take on board any recommendations made by children's social care services or the police with regard to any disciplinary action required.

6.8. The trust aims to resolve all cases as soon as is possible and aims for all but exceptional cases to be completed within three months.

6.9. The LADO will continue to liaise with the trust to monitor the progress of the case and provide advice or support when required or requested.

6.10. The trust will not consider suspension as a default position: the Case Manager and LADO will attempt to find alternative outcomes for the accused before they are suspended. Outcomes may include:

6.10.1. Redeploying the member of staff within the trust to avoid direct contact with the pupil.

6.10.2. Providing an assistant to be present when the individual has contact with pupils.

6.10.3. Redeploying the individual to alternative work so they do not have unsupervised access to pupils.

6.10.4. Moving the pupil to different classes so that they do not come into contact with the accused member of staff, making it clear that this is not a punishment.

6.10.5. Temporarily redeploying the accused to another role in a different location.

7. Cases Where a Crime May Have Been Committed

7.1. If there is no cause to suspect that significant harm is an issue, but a criminal offence might have been committed, the LADO will immediately inform the police and convene a similar discussion to decide whether a police investigation is needed. That discussion will also involve the trust.

7.2. Where the involvement of children's social care services is not required, as the pupil is not assessed to be at risk of significant harm, but a police investigation continues, the LADO will agree with the police, the trust and any other agency involved with the child, the nature of the allegation and how this must be addressed.

7.3. This joint evaluation discussion must take place within one working day of the referral and must consider how to progress enquiries, e.g. a criminal process parallel with a disciplinary process, or whether disciplinary action needs to be suspended until police enquiries/prosecution are completed.

7.4. These investigations must be reviewed by the police no later than four weeks after the joint evaluation discussion has concluded and, thereafter, at fortnightly or monthly intervals, depending on the complexity of the case.

7.5. If the police and/or the Crown Prosecution Service (CPS) decide not to charge the individual with an offence, decide to administer a caution, or the person is acquitted by a court, the police will pass all information they have which may be relevant to a disciplinary case to the trust without delay. In those circumstances, the Case Manager will deal with the case in consultation with the LADO.

7.6. If the person is convicted of an offence, the police will also inform the employer straight away so that the appropriate action can be taken.

8. Immediate Referrals to Children's Social Care Services or the Police

8.1. The following situations will require immediate referral to children's social care services or the police:

8.1.1. Where the pupil has suffered, is suffering, or is likely to suffer significant or serious harm.

8.1.2. Where the pupil alleges that a criminal offence has been committed.

8.1.3. Any allegation of a sexual nature.

8.2. The Case Manager is aware that some other complaints may also be regarded as child protection issues and, therefore, each complaint will be carefully considered in consultation with the LADO before taking any action.

8.3. Where allegations of the above are referred to children's social care services, subsequent action will be in accordance with local safeguarding arrangements.

9. Suspension

9.1. The possible risk of harm to children posed by an accused person needs to be effectively evaluated and managed in respect of the child(ren) involved in the allegations. In some cases, that will require the school to consider suspending the person until the case is resolved.

9.2. Suspension is not an automatic response when an allegation is reported. If the trust is concerned about the welfare of other children in the community or the staff member's family, those concerns will be reported to the LADO or police, but suspension is highly unlikely to be justified based on such concerns alone.

9.3. Suspension will only be considered in a case where there is cause to suspect a child or other children at the trust is or are at risk of harm, or the allegation warrants investigation by the police, or is so serious that it might be grounds for dismissal; however, a person will not be suspended automatically, or without careful thought being given to the particular circumstances of the case.

9.4. The trust will consider carefully whether the circumstances of the case warrant a person being suspended from contact with children at the trust until the allegation is resolved, and may wish to seek advice from the personnel adviser.

9.5. The trust will also consider whether the result that would be achieved by suspension could be obtained by alternative arrangements. For example, redeployment so that the individual does not have direct contact with the child concerned, or providing an assistant to be present when the individual has contact with children. This allows time for an informed decision regarding the

suspension and possibly reducing the initial impact of the allegation. This will, however, depend upon the nature of the allegation.

9.6. The trust will consider the potential permanent professional reputational damage to members of staff that can result from suspension where an allegation is later found to be unsubstantiated, unfounded or maliciously intended.

9.7. Where it has been deemed appropriate to suspend the person, written confirmation will be dispatched within one working day, giving the reasons for the suspension. The person will be informed at that point who their named contact is within the trust and provided with their contact details.

9.8. Children's social care services or the police cannot require the trust to suspend a member of staff or a volunteer, although the school will give appropriate weight to their advice.

9.9. The power to suspend is vested in the Headteacher or the Governing Body, who are the employers of staff at the trust.

9.10. In certain circumstances, where a strategy discussion or initial evaluation concludes that there should be enquiries by children's social care services and/or an investigation by the police, the LADO will canvass police and children's social care services for views about whether the accused member of staff needs to be suspended from contact with children to inform the school's consideration of suspension.

9.11. A risk assessment is carried out for each individual case to determine whether the member of staff should be suspended. The assessment takes into account the context of the allegation, background information in relation to the member of staff, and any outcome following the strategy meeting. It also takes into account whether a temporary transfer or period of paid leave is appropriate as an alternative to suspension. The assessment is recorded, and a copy kept on file.

10. Strategy Meeting

10.1. A strategy meeting will be convened within one working day of the referral being made and chaired by the child protection and review unit. The LADO and all relevant personnel including, where appropriate, the Case Manager (or nominated representative) and the HR department, will attend this meeting in order to share information and participate in the planning of any enquiries. The strategy meeting will be conducted in accordance with local safeguarding arrangements.

10.2. The purpose of the strategy meeting is to:

10.2.1. Consider the risk to the pupil directly involved and other pupils.

10.2.2. Share all relevant information about the person who is the subject of the allegation and about the alleged victim.

10.2.3. Determine the need for investigation and who is responsible for carrying it out.

10.2.4. Plan the investigation/enquiries and set timescales for tasks to be undertaken.

10.2.5. Consider whether any other children are affected by the allegations, e.g. the person's own children, grandchildren, or other children in the agency setting such as children placed with foster carers, childminders or youth clubs.

10.2.6. Ensure that the person who is the subject of the allegations is kept informed and supported.

10.2.7. Decide how regular information and support will be provided to the child and family and by whom.

10.2.8. Plan all interviews and agree who should undertake them so that there is no confusion between criminal investigation (section 47 enquiry) and disciplinary processes.

10.2.9. Consider the need to inform relevant parties.

10.2.10. Jointly consider how to manage any media interest.

10.2.11. Consider whether the circumstances require the person who is subject to allegation to be suspended from contact with pupils; this may change as the investigation progresses and should be reviewed regularly.

10.2.12. Consider the appropriate course of action if the allegation is against a governor, a temporary member of staff or a supply teacher.

10.3. An LA social worker, health practitioners and a policy representative will be involved to attend the strategy discussion. A representative from the trust will also attend.

10.4. The member of staff who is the subject of the allegation will not be invited to attend the meeting; however, the strategy meeting will agree when and how the member of staff will be informed.

10.5. The minutes of the strategy meeting will be circulated by the chair of the meeting to relevant parties.

11. Communication following the Strategy Meeting

11.1. The following people will be informed of the outcome of the strategy meeting:

11.1.1. The pupil making the allegation and their parents will be informed of the likely course of action and that the matter is confidential and must not be discussed.

11.1.2. The member of staff against whom the allegation has been made will be informed of the likely course of action – a record will be kept on the individual's personnel file.

11.1.3. The Chair of Governors will be informed of the likely course of action.

11.2. Subsequent strategy meetings will be held fortnightly, or at a minimum monthly, to review progress.

12. Monitoring Progress

12.1. The LADO will regularly monitor the progress of cases, either by reviewing strategy meetings or by liaising with the police and/or children's social care services colleagues or the trust, as appropriate.

12.2. Reviews will be conducted at fortnightly or monthly intervals, depending on the complexity of the case.

13. Referral to DBS

13.1. If, in conclusion of the case, the trust ceases to use the person's services against whom the allegation was made, or the person ceases to provide their services, the trust will consult the LADO about whether a referral to the DBS is required. If a referral is appropriate, the report will be made within one month.

13.2. The trust will make a referral to the DBS where there is reason to believe that an individual has engaged in conduct that has harmed, or is likely to harm, a child, or if a person otherwise poses a risk of harm to a child. This duty applies to all individuals, irrelevant of whether they are working in regulated activity or not.

13.3. Referrals to the Teaching Regulation Agency (TRA) are also made where appropriate.

14. Keeping Records

14.1. A clear and comprehensive record of any allegation is made even if police or disciplinary action is not taken or proven. This includes details of the allegation, how the allegation was followed up and resolved, and a note of any action

taken, including any sanctions imposed. The record will be kept on the member of staff's confidential personnel file.

14.2. If an allegation is found to be malicious, it will be removed from the staff member's personnel file – all other allegations will be recorded. The purpose of this record is to enable accurate information to be given in response to any future reference request if the individual leaves the trust.

14.3. It is also important that accurate and detailed information is held in the event that the DBS makes requests for further information. This information is given to the DBS, if requested, due to the nature of the allegation. A comprehensive record of all allegations will provide clarification in cases where a future DBS disclosure reveals information from the police about an allegation which did not result in a criminal conviction.

14.4. The record will be retained until normal retirement age or for 10 years from the date of the allegation; whichever is longer. The school is required to preserve records which contain information about allegations of sexual abuse for the Independent Inquiry into Child Sexual Abuse, for the term of the inquiry.

15. Confidentiality

15.1. Every effort is made to maintain confidentiality and guard against unwanted publicity whenever an allegation is made.

15.2. The Case Manager will have due regard to advice given by the LADO, police or children's social care services to agree to the following:

15.2.1. Who needs to know about the allegation and what information can be shared.

15.2.2. How to manage speculation, leaks and gossip.

15.2.3. What, if any, information can be reasonably given to the wider community to reduce speculation.

15.2.4. How to manage the press and any media coverage.

15.3. The trust will adhere to the restrictions preventing publication of any material that may lead to the identification of a teacher in a school who has had an allegation made against them. A statement will be released if the accused decides to waive their right to anonymity by going public themselves or by giving written consent for another to do so.

15.4. If the judge lifts the restrictions, the trust will release a statement.

15.5. Publication of the case will only be made when the accused has been charged or the Secretary of State publishes information about the investigation.

15.6. The publication of material that may lead to the identification of the accused is prohibited.

15.7. Any enquiries from the press will be directed to the chair of governors, unless it is a freedom of information or subject access request, in which case the school, HR Manger or legal representative will be contacted.

16. False and Unsubstantiated Allegations

16.1. If an allegation made by a pupil is proved to be false, unsubstantiated and/or malicious, action will be taken to determine whether the person who made the allegation needs services or may have been abused by someone else.

16.2. In the case of a pupil deliberately inventing or making a malicious allegation, the Case Manager will consider action in accordance with the Behaviour Policy and whether the police should be asked if action may be appropriate against the person responsible.

16.3. If it is clear to the Case Manager and the LADO that the allegation is demonstrably false or unfounded, the member of staff will be informed orally and in writing of the allegation, that it is without foundation and that no further action will be taken.

16.4. Where appropriate, and if requested, support will be offered, which could include occupational health and counselling services.

16.5. If an allegation made by a member of staff is proved to be false and/or malicious, an investigation will take place in accordance with the trust's Disciplinary Policy and Procedure. The police may also consider taking action against the individual making the allegation.

16.6. Details of allegations that are found to have been malicious will be removed from the staff member's personnel file. Allegations that are proven to be false, unsubstantiated or malicious will not be included in references.

17. Non-recent allegations

17.1 If a former pupil makes an allegation to the school that they were abused as a child, they will be advised to report the allegation to the police. Non-recent allegations made by a pupil will be reported to the LADO in line with the LA's procedures for dealing with non-recent allegations. All pupils and staff will be made aware that abuse can be reported no matter how long ago it happened.

18. Learning Lessons

18.1. Where an allegation has been made against a member of staff, lessons can be learned, whether the allegations are proven or not. At the conclusion of a case, relevant parties will discuss what can be learned and, therefore, lead to improved practice, either to the trust procedures or to help prevent similar events in the future. The LADO and the Case Manager will review the case.

19. Returning to Work

19.1. Where a member of staff has been suspended and it is decided on conclusion of the case that they can return to work, the case manager will decide on the best course of action to facilitate the return to work, seeking advice from the school's HR provider and the LADO where necessary

19.2. The individual's circumstances will be taken into account, and options such as a phased return and the provision of a mentor to provide assistance and support in the short term considered where appropriate

19.3. The case manager will also consider how the staff member's contact with the child who made the allegation can best be managed if they are still attending the school. The member of staff will be provided with support, including welfare support, during their return to work.

20. Information Sharing

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

20.2. Staff attending the strategy meeting will be prepared with the appropriate information, e.g. full name, address, when their latest DBS check was completed, start date, involvement in youth activities, children of their own, and any other information that could be helpful.

20.3. As per procedures, the police will obtain consent from the individuals concerned to share the statements and evidence they obtain with the school for disciplinary purposes. This will be done as their investigation proceeds rather than after it has concluded. This will enable the police to share relevant information without delay at the conclusion of their investigation or any court case.

20.4. Children's social care services adopt a similar procedure when making enquiries to determine whether the pupil named in the allegation needs 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 school without delay.

21. Resignations and 'Compromise or Settlement Agreements'

21.1. The fact that a person tenders their resignation, or ceases to provide their services, will not prevent an allegation being followed up in accordance with these procedures.

21.2. Every effort is made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children, including where the person concerned refuses to cooperate with the process.

21.3. Wherever possible, the accused will be given a full opportunity to answer the allegation and make representations about it.

21.4. The process of recording the allegation and any supporting evidence, and reaching a judgement about whether it can be regarded as substantiated, will continue even if representations cannot be given 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 the accused's notice period expires before the process is complete, but it is important to reach and record a conclusion wherever possible.

21.5. 'Compromise' or 'settlement agreements' will not be used in cases where the accused refuses to cooperate or resigns before their notice period expires – this will not prevent a police investigation if necessary.

21.6. In any event, 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 DBS or the TRA where circumstances require that.

22. Supporting Those Involved

Supporting the accused

22.1. The trust has a duty of care to its employees and will act to manage and minimise the stress inherent in the allegations and disciplinary process. Support for the individual is vital to fulfilling this duty.

22.2. 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 children's social care services or the police.

22.3. The individual will be advised to contact their trade union representative, if they have one, or a colleague for support.

22.4. The accused will be given access to welfare counselling or medical advice.

22.5. The trust will appoint a named representative to keep the accused informed of the progress of the case and consider what other support is appropriate for the individual; this may include occupational health.

22.6. 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.

22.7. Social contact with colleagues and friends is not prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

Supporting parents

22.8. Parents involved with an allegation will be kept informed about the case; however, where a strategy discussion is required, or the police or children's social care services need to be involved, the Case Manager will not inform them until those agencies have been consulted and have agreed what information can be disclosed.

22.9. They will 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.

22.10. The deliberations of a disciplinary hearing, and the information considered in reaching a decision, cannot normally be disclosed, but the parents of the child will be told the outcome in confidence.

22.11. In deciding what information to disclose, careful consideration will be given to the provisions of the GDPR and the Data Protection Act 2018, the law of confidence and, where relevant, the Human Rights Act 1998.

22.12. Parents will be reminded of the requirement to maintain confidentiality about any allegations made against teachers whilst investigations are ongoing.

Supporting the child

22.13. 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 will consider what support the child or children involved may need.

23. References

22.1 References will be provided in line with the school's Safer Recruitment Policy.

The school will ensure that any information provided confirms whether they are satisfied with the applicant's suitability to work with children, and only provide the facts of any substantiated safeguarding concerns or allegations that meet the harm threshold within any employment references.

24. Monitoring and Review

24.1. This policy is reviewed annually.

24.2. Any changes to this policy will be communicated to all relevant stakeholders.

Appendix 1 – Information Guide for Employees Facing Allegations

The aim of this information guide is to explain the processes involved, and the support and guidance available, if it is alleged that you have:

- Harmed a pupil or put a pupil at risk of harm.
- Committed a criminal act towards a pupil.
- Behaved in a way that raises concern about the risk you may pose to children or young people.

1. Initial Action

1.1. As soon as possible after the allegation is made, the Case Manager should consult the LADO to discuss the next action points, taking advice from children's social care services and the police as needed. The police may advise that you are not told about the allegation immediately.

1.2. The Case Manager's decision in consultation with the LADO will be one, or a combination of, the following:

1.2.1. The pupil is alleged to have suffered, or is likely to suffer, significant harm which requires immediate referral to children's social care services.

1.2.2. A criminal offence is alleged – this requires referral to children's social care services and the police.

1.2.3. The allegation represents poor or inappropriate behaviour – this should be considered under the school's disciplinary and/or capability procedures, including referral, if appropriate, to the school's occupational health advisor.

1.2.4. The allegation is clearly and demonstrably without foundation and no further action will be taken.

1.3. If the conclusions of the initial discussions are a. or b., a strategy discussion should take place involving police, children's social care services, the Case Manager, LADO and the school HR Manager. You should not be present. The discussion will focus on the needs of the pupil(s) who may be at risk. It will determine what action should be taken regarding further investigation, but it is not part of any disciplinary procedures.

1.4. If the initial discussions conclude the situation is as outlined in c., an investigation will be initiated under the school's disciplinary and/or capability procedures.

1.5. If the conclusion is as outlined in 1.2.4., you should be told orally and in writing that the allegation is without foundation and that no further action will be taken.

2. Types of Possible Investigation

2.1. The types of investigation that may be undertaken are:

2.1.1. Child protection inquiries by children's social care services.

2.1.2. Criminal investigation by the police.

2.1.3. Disciplinary/capability investigation.

2.2. A disciplinary investigation will usually be held in abeyance until external agency investigations are complete, unless prior agreement is reached. Whilst these investigations should be conducted as speedily as possible, they should also be balanced against the need to be thorough and fair, in line with natural justice. Statements taken in external investigations could be used in subsequent disciplinary proceedings.

3. Suspension

3.1. Suspension is a neutral act and should not be automatic. Where possible, the decision to suspend should be informed by the strategy discussion, and should only occur when the known facts relating to the allegation indicate:

3.1.1. A pupil may be at risk.

3.1.2. The allegation is so serious that dismissal for gross misconduct is possible.

3.1.3. Suspension is necessary to allow the conduct of the investigation to proceed unimpeded.

3.2. Alternatives to suspension will be considered, e.g. leave of absence, transfer of duties, additional supervision.

3.3. Where suspension is being considered, an interview with you will normally be arranged. You have the right to be accompanied by a trade union representative or a colleague. You are advised to seek the assistance of your union representative. If you are suspended, one of their roles will be to promote your interests and raise issues that may be of concern to you.

3.4. The interview is not an examination of the evidence, but an opportunity for you to make representations concerning possible suspension.

3.5. Other people, including other staff, should only be told about the allegation on a 'need-to-know basis'. Notification may be delayed if the police think this could prejudice an investigation.

3.6. Those who will be told of the allegation and likely course of action include you, the pupil concerned, their parents, the person making the allegation, your manager, the Case Manager, school HR Manager, the LADO and the investigating agencies as above.

3.7. If you are suspended, those persons likely to be on a disciplinary panel, if convened, will be given limited information so any future disciplinary process is not prejudiced. If the matter becomes common knowledge, it may be necessary to issue a brief statement, agreed by the agencies concerned, to parents, pupils and the public.

4. Support

4.1. You should expect to be:

4.1.1. Advised to contact your union representative.

4.1.2. Given a support contact within the trust who should keep you up-to-date with the progress of your case.

4.1.3. Given a team contact, if you are suspended, who will update you about normal school activities. Social contact with colleagues should not be precluded unless this would be detrimental to the investigation. The type of information and frequency of contact should be agreed, but colleagues should not comment on or discuss the investigation.

4.1.4. Offered access to a staff counselling service and/or occupational health support,

4.2. This may be a stressful time, so in addition to contacting your union representative, you are advised to see your GP if you think your health may be affected.