



Dealing with Allegations of Abuse Against Staff Policy

This is a Trust-Wide Policy which applies to all
academies within the Trust

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v2.1	CEO	07/07/22	<p>Section 2.1.1 – Table updated to include LGBs and separate CEO from Directors.</p> <p>Section 2.1.1 – Clarity around appointment of Allegations Manager provided</p> <p>Section 4.1 – Table updated to include LGBs</p> <p>Allegations Referral Form – updated to CSAP from BSCB</p> <p>Flow Chart removal</p>

Introduction and scope

1.1 Scope

These procedures should be used in respect of all cases where it is alleged that a person, either an employee of the Trust or a volunteer at one of the Trust's Academies, who works with children 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 may pose a risk of harm to children

These procedures may also apply where concerns arise about the employee's/volunteer's behaviour towards his/her own children or any other child or there are significant issues concerning disqualification by association.

2.1 Summary of the process

It is in everyone's interest to resolve cases as quickly as possible, consistent with a fair and thorough investigation. All allegations must be investigated as a priority to avoid any delay. The time taken to investigate and resolve individual cases depends on a variety of factors including the nature, seriousness and complexity of the allegation.

There may be up to three strands in the consideration of an allegation:

- A police investigation of a possible criminal offence;
- Enquiries and assessment by Children's Social Care about whether a child is in need of protection or in need of services;
- Consideration by an employer/regulatory body of action in respect of the individual.

2.1.1 Initial Considerations

The Trust's/Academy's Safeguarding Policy and Procedures and Child Protection Policy & Procedures should be implemented and used to inform and guide. The Allegations Manager should be consulted on all allegations that appear to meet the criteria, within 1 working day.

Throughout this policy, the term Headteacher includes an Executive Headteacher.

<i>Allegation Against</i>	<i>Senior Leader Reporting to Allegations Manager</i>	<i>Designated Alternative to Report to Allegations Manager</i>
Chair of the Board	Vice Chair of the Board	Chief Executive Officer
Other Director	Chair of the Board	Vice Chair of the Board
Member of LGB	Member of the Board	CEO
CEO	Chair of the Board	Vice Chair of the Board
Headteacher	Chief Executive Officer	Chair of the Board
All other employees or volunteers	Headteacher	Chief Executive Officer

The CEO will appoint the Allegations Manager which may be delegated to an external expert. In case of an allegation being made against the CEO, the Chair of the Trust will determine the Allegations Manager. The Allegations Manager recommend whether a police investigation or Children's Social Care enquiries are appropriate and whether immediate intervention is required. In some, more complex cases, or where it is unclear how the case should be taken forward, the Allegations Manager, police or Children's Social Care may call a consultation meeting with the employer, and occasionally, other professionals, to review the information and decide how best to proceed.

In less serious cases, police and Children's Social Care may not need to be involved but the Allegations Manager will provide an objective view by someone who is independent of the organisation.

The consultation with the Allegations Manager should take place before any investigations commence to establish whether:

- The allegation falls within the scope of the procedures, including physical contact;
- There is a need to gather further information.

2.1.2 Initial Action

If there is an immediate risk, appropriate actions may need to be taken e.g. urgent involvement of police; removal of member of staff; securing evidence; urgent medical attention.

The Allegations Manager will consult, as appropriate, with Children's Social Care and the Police Designated Officer to consider:

- If a Children's Social Care or a police response may be appropriate and if a strategy meeting and/or an evaluation meeting needs to be held;

- If the allegation should be managed solely by the Trust, with the proviso that, if further information comes to light suggesting a child protection response or criminal response may be necessary, then a further consultation will take place.
- In exceptional circumstances, with complex cases, the Allegations Manager may determine that further consultation is appropriate with the employer where there is no involvement needed by police or Children's Social Care, this could be by phone or face to face.

2.1.3 Suspension

The possible risk of harm to children posed by the 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 Senior Leader to consider suspending the person until the case is resolved. Suspension should not be the default position; an individual should only be suspended if there is no reasonable alternative. Prior to any decision being made the Senior Leader must take advice from the Allegations Manager, Chief Executive Officer and the Trust's HR Provider.

Suspension should only be considered in cases where:

- There is cause to suspect a child or other children at the workplace is or are at risk of significant harm; or
- The case is so serious that it might be grounds for dismissal.

The Senior Leader should also consider whether the result that would be achieved by suspension could be obtained by alternative arrangements, based on an assessment of risk, for example:

- Redeployment within the Academy/Trust 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 within the Academy/Trust to alternative work so the individual does not have unsupervised access to children;
- Moving the child or children 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.

Only the Trust has the authority to suspend a member of staff; however the Senior Leader must give appropriate weight to any recommendations of the Evaluation Meeting. Where it has been deemed appropriate to suspend the person, written confirmation should be sent within one working day, giving as much detail as possible for the reasons for the suspension and the suspension should be reviewed on a regular basis.

If the Senior Leader is concerned about the welfare of other children in the community or the employee's family, those concerns should be reported to the Allegations Manager, Children's Social Care or police but suspension is highly unlikely to be justified on the basis of such concerns alone.

2.1.4 Informing the Person Subject to the Allegation

The Senior Leader should inform the person subject to the allegation, about the allegation, as soon as possible after consulting the Allegations Manager. Where a strategy discussion is required, or police or Children's Social Care may need to be involved, the Senior Leader must wait until the Allegations Manager has agreed with the agencies what information can be disclosed to the person subject to the allegation and by whom.

2.1.5 Informing the Parents/Carers

The Senior Leader will need to consider advising parents of an incident involving their child this might be straight away, for example, if the child has been injured whilst in the organisation's care and requires medical treatment, or this may need to wait until initial consultation has taken place with the agencies involved, to determine what can be disclosed and by whom.

2.1.6 No further action:

Where the Allegations Manager agrees that no further action is to be taken regarding the individual facing the allegation, the decision and justification should be recorded by both the Senior Leader and the Allegations Manager and agreement reached as to what information should be put in writing to the individual concerned and by whom. The Senior Leader should then consider with the Allegations Manager any action in respect of those who made the initial allegation and consider what information should be shared with the child and their parents/carers and by whom.

Where the allegation does not require a formal process, appropriate action should be initiated within three working days.

3.1 External Investigations

An external investigation takes primacy over any internal investigation or disciplinary action. The Senior Leader must ensure s/he has written instructions from the Allegations Manager as to whether any internal investigation or disciplinary action may run concurrently with an external investigation or must be postponed until the completion of the external investigation.

3.1.1. Strategy Meeting:

If there is cause to suspect that a child is suffering or is likely to suffer significant harm, the Allegations Manager/Children's Social Care will immediately ask for a strategy meeting to be convened.

3.1.2 Evaluation Meeting:

Following the strategy meeting or in cases where a formal strategy discussion is not considered appropriate because the threshold of 'significant harm' is not reached, but a police investigation might be needed, the Allegations Manager will conduct a similar discussion with the police, the Trust, and any other agencies involved with the child to evaluate the allegation and decide how it should be dealt with.

3.1.3 Action following Strategy/Evaluation Discussion:

Where the strategy or evaluation meeting decides that an investigation by the police or Children's Social Care is unnecessary, the Allegations Manager will discuss the next steps with the Senior Leader.

If a criminal investigation is required, the police will aim to complete their enquiries as quickly as possible, consistent with a fair and thorough investigation, and will keep the progress of the case under review. They should at the outset set a target date for reviewing progress of the investigation and consulting the Crown Prosecution Service (CPS) about whether to proceed with the investigation, charge the individual with an offence, or close the case.

All agencies should continue to review the case and inform the Allegations Manager of any significant developments. The Allegations Manager will also regularly review the progress of the case.

3.1.4 Action following a criminal investigation or a prosecution or where Children's Social Care have undertaken an assessment:

The police or the CPS will inform the Allegations Manager immediately of any case disposal decisions and court appearances and when the criminal investigation is completed. The police should inform the alleged victim and their parents/carers of the outcomes once the investigation or prosecution is concluded.

If the police and/or CPS decide not to charge the individual with an offence, or decide to administer a caution, or the person is acquitted by a Court, the police should pass all information they have which may be relevant to a disciplinary case to the Senior Leader without delay.

If Children's Social Care undertaken an assessment they should seek permission to share the information they have which may be relevant to a disciplinary case.

The information provided by the police and/or Children's Social Care should inform the decision and subsequent action of the Senior Leader, including dismissal, is not ruled out. The options will depend on the circumstances of the case and consideration will need to take account of the result of the police investigation or the trial, as well as the different standard of proof required in disciplinary and criminal proceedings.

4.1 Disciplinary Investigation:

Where an investigation by the police or Children's Social Care is unnecessary, or has been completed, the Senior Leader will need to determine if any further disciplinary investigation is needed.

<i>Employee Level</i>	<i>Investigating Manager</i>	<i>Disciplinary Manager</i>	<i>Appeal Manager</i>
Chief Executive Officer	Chair of the Board or other Board Director, appointed by the Chair	Trust Disciplinary Panel	Trust Appeal Panel
Headteacher	Chief Executive Officer	LGB Disciplinary Panel	Trust Appeal Panel
A member of the Academy Leadership Team	Headteacher	Chief Executive Officer	LGB Appeal Panel
Other Teaching and Support Staff	A member of the Academy Leadership Team	Headteacher	LGB Appeal Panel

In some circumstances the Trust may commission an independent investigation: to ensure objectivity; because appropriate resources are not available or the nature and complexity of the allegation might necessitate it.

In all investigations and considerations of an allegation due regard should be given to ensuring objectivity and impartiality. Any person involved in the consideration or investigation of an allegation must declare any possible conflict of interest.

4.2 Outcome of the Internal Disciplinary Process

The outcome of any process must be reported to the Allegations Manager, who should consider with the Senior Leader what information should be shared with the child and their parents/carers and by whom and reach agreement as to the category of the allegation:

- Substantiated: there is sufficient identifiable evidence to prove the allegation;
- False: there is sufficient evidence to disprove the allegation;
- Malicious: there is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false;
- Unfounded: there is no evidence or proper basis which supports the allegation being made. It might also indicate that the person making the allegation misinterpreted the allegation or was mistaken about what they saw. Alternatively they may not have been aware of the circumstances;
- Unsubstantiated: this is not the same as a false allegation. It means that there is insufficient evidence to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

For all allegations a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, a note of any action taken and the decisions reached should be kept on the confidential personnel file of the individual concerned and a copy of this should be provided to the individual.

4.2.1 Action in Respect of Substantiated Allegations

If the allegation is substantiated and the person is dismissed or the employer ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the Allegations Manager should discuss with the Senior Manager and the employer's personnel adviser whether a referral to the Disclosure and Barring Service (DBS) for consideration of inclusion on the barred lists, and to a Professional Regulatory Body is required.

4.2.2 Action In Respect of Unfounded or Malicious Allegations

For those cases where it is immediately clear that the allegation is unfounded or malicious then it is expected that they should be resolved within five working days.

If an allegation is determined to be unfounded or malicious, the Allegations Manager should discuss the matter with Children's Social Care to determine whether the child concerned is in need of services, or may have been abused by someone else.

5.1 Supporting those involved

5.1.1 The Child and their Parents/Carers

The Senior Leader should also keep the child/parent/carer up to date with the progress of the case and the outcome where there is not a criminal prosecution, including the outcome of any disciplinary process in confidence. The precise nature and detail of information released must be agreed in advance. In cases where a child may have suffered significant harm, or there may be a criminal prosecution, Children's Social Care or the police as appropriate, should consider what support the child or children involved may need. Similarly, where a child has been harmed the Trust should consider what support they should offer the child.

5.1.2 The Person Subject to the Allegation

The Trust has a duty of care to its employees. They should act to manage and minimise the stress inherent in the allegations and disciplinary process. Individuals should be informed of allegations as soon as possible as previously outlined in this policy.

The employer should also consider what other support is appropriate for the individual. They should be advised to contact their trade union representative, if they have one, and given a named point of contact in the organisation. They should also be given access to welfare counselling or medical support where this is provided by the employer.

Consideration needs to be given when employees are suspended to ensure that they are kept informed of both the progress of their case and current work related issues. The precise nature and detail of information released must be agreed in advance. Social contact with colleagues and friends must not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence. The individual should be advised not to discuss the case with colleagues.

Where it is decided, on the conclusion of the case, that the person who has been suspended can return to work, the Senior Leader should consider how best to facilitate that. Most people will benefit from some help and support to return to work after a very 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 Senior Leader should also consider how the person's contact with the child or person who made the allegation can best be managed if s/he is to continue working with them.

6.1. Confidentiality

It is extremely important that, when an allegation is made, every effort is made to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. At the strategy/evaluation discussion the Senior Leader should take advice from the Allegations Manager, police and Children's Social Care 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 any speculation; and
- How to manage press interest if and when it should arise.

6.1.1 Teachers

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 legislation makes it an offence for any matter relating to the person to be included in any publication if it is likely to lead members of the public to identify the person as

the teacher who is the subject of the allegation. Publication is defined as: 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. It does not include an indictment or other document prepared for use in particular legal proceedings, nor a document published by the regulator of a profession of which the person who is the subject of the allegation is a member in connection with disciplinary proceedings in relation to the person.

The restrictions cease to apply:

- Once the teacher has been charged with an offence;
- If the Secretary of State publishes information about the person who is the subject of the allegation in connection with the investigation of disciplinary cases;
- If the person who is the subject of the allegation waives their right to anonymity, or ☐ Gives their written consent for another person to do so.

Whilst The Education Act 2011 guidance on reporting restrictions only apply to teachers, this should apply to any employee or volunteer.

7.1 Record Keeping

All Trust employees dealing with allegations against persons working with children, including the person to whom the allegation is made in the first instance, should make clear, accurate and comprehensive records which should be signed, dated and timed. The record should provide details of the allegation, how it was followed up and resolved and notes of any action taken and decisions made.

A comprehensive summary of this should be made and a copy kept on the personnel file and copy of given to the individual. Comprehensive notes should be made of any strategy and evaluation discussions which are agreed by and distributed to all present. These should be held on the confidential personnel file but not shared with the individual concerned.

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 resurfaces 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. Details of allegations that are found to have been malicious should be removed from personnel records.

8.1 Resignations & Compromise 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 these procedures. It is important that every effort is made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children, including any in which the person concerned refuses to cooperate with the process. Wherever possible the person should be given a full opportunity to answer the allegation and make representations about it. The process of recording the allegation and any supporting evidence, and reaching a judgement about whether it can be regarded as substantiated on the basis of all the information available should continue even if that cannot be done or the person does not cooperate. It may be difficult to reach a conclusion in these circumstances, and it may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete, but it is important to reach and record a conclusion wherever possible.

By the same token so called 'compromise agreements', by which a person agrees to resign if the

employer agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, must not be used in these cases. A compromise agreement will not prevent a police investigation where that is appropriate nor does it override the statutory duty to make a referral to the DBS.

9.1 References

Any reference provided by a Trust employee must include accurate information taken from the personnel file and individual organisations need to have appropriate consideration and procedures to cover providing information in references in relation to allegations including where sanctions are “spent”.

In addition where the allegation was proven to be unsubstantiated, unfounded or malicious, information should not be included in employer references. A history of repeated concerns or allegations which have all been found to be unsubstantiated, unfounded or malicious should also not be included in any reference.

10.1 Referrals to the Disclosure & Barring Services or Regulatory Bodies

10.1.1 Disclosure & Barring Services (DBS)

Under the Safeguarding and Vulnerable Groups Act 2006 there is a legal duty for regulated activity providers and personnel suppliers employers to make a referral to the DBS where they have permanently removed a person from regulated activity through dismissal or permanent transfer from regulated activity (or would have done if the person had not left, resigned, retired or been redundant); and the person has carried out one of the following:

- Been cautioned or convicted of a relevant (automatic barring) offence; or
- Engaged in relevant conduct in relation to children that has harmed a child or put them at risk of harm; or
- Satisfied the Harm Test in relation to children (i.e. No action or inaction occurred but the present risk that it could was significant). To satisfy the harm test there needs to be credible evidence of risk of harm to children such as statements made by an individual regarding conduct / behaviour etc.
- A new test for regulated activity has been introduced which means the DBS can only bar a person from working within regulated activity with children or adults if it is believed the person is or has been, or might in the future be, engaged in regulated activity. The only exception to this is where a person is cautioned or convicted for a relevant (automatic barring) offence and is not eligible to submit representations against their inclusion in a barred list.

Additionally, where a person is cautioned or convicted of a relevant (automatic barring) offence with the right to make representations, the DBS will ask the person to submit their representations and consider them before making a final barring decision.

The Trust has 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.

10.1.2 Regulatory Bodies

The Trust should refer to the guidance published by their relevant regulatory body to determine if and when any allegation of professional misconduct should be reported to them.

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 legislation makes it an offence for any matter relating to the person to be included in any publication if it is likely to lead members of the public to identify the person as the teacher who is the subject of the allegation. Publication is defined as: 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. It does not include an indictment or other document prepared for use in particular legal proceedings, nor a document published by the regulator of a profession of which the person who is the subject of the allegation is a member in connection with disciplinary proceedings in relation to the person.

The restrictions cease to apply:

- Once the teacher has been charged with an offence;
- If the Secretary of State publishes information about the person who is the subject of the allegation in connection with the investigation of disciplinary cases;
- If the person who is the subject of the allegation waives their right to anonymity, or ☐ Gives their written consent for another person to do so.

Whilst The Education Act 2011 guidance on reporting restrictions only apply to teachers, this should apply to any employee or volunteer.

Allegations Referral Form (to be completed by referring agency)

Criteria for CSAP (Child Safeguarding Assurance Partnership) managing allegations procedures

These procedures should be applied when there is an allegation that a person who works with a child 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;

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

Referrer Details	
Date of referral	
Referrer name, position and name of service making referral	
Referrer contact telephone number, email address	
Alleged Perpetrator / Person of concern	
Full Name of Perpetrator	
Date of birth	
Gender	
Address	
Ethnic origin (if known)	
Disability (if known)	
Occupation / Job Title / Job Role	
Employer / Organisation Details Start Date	
Date of last known DBS check (if known)	
Have there been any previous Allegations / Concerns?	

Does the person have any contact in any other capacity with vulnerable groups?	
Details of any other children resident at the persons home address (Names and Dates of birth where possible)	
Alleged Victim/s	
Full name of alleged victim	
Date of birth	
Gender	
Ethnic origin (if known)	
Disability (if known)	
Legal status and whether looked after child	
Details of parents/guardians	
Brief description of allegation or concern including date of incident.	
Any known impact on alleged victim – provide any dates and details	
What actions have been taken to date	
Other agencies/professional involvement.	

This form must be returned to lado@blackpool.gov.uk or lado.admin@lancashire.gov.uk for consideration.