

Three Counties Academy Trust



# Allegations of Abuse Against Staff Policy

## #SG5

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## **Statement of intent**

Three Counties Academy Trust (TCAT) takes its responsibility of care for pupils and our staff seriously. We will thoroughly investigate allegations of abuse 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.

## 1. Legal framework

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

- Children Act 1989
- Education Act 2002
- Children Act 2004
- Data Protection Act 2018
- UK General Data Protection Regulation (UK GDPR)
- DfE (2021) 'Keeping children safe in education 2021'
- DfE (2018) 'Working Together to Safeguard Children 2018'

This policy operates in conjunction with the following TCAT and school policies:

- Child Protection and Safeguarding Policy
- Reporting Low-level Safeguarding Concerns Policy
- Disciplinary Policy and Procedure
- Staff Code of Conduct
- Data Protection Policy
- Conduct for Learning (Behaviour) Policy
- Safer Recruitment Policy
- Records Management Policy

## 2. Scope of this policy

**NB.** 'Child' refers to anyone under the age of 18.

This policy covers the process for dealing with allegations that meet the harms threshold, which are allegations where it is alleged that anyone working at TCAT, including supply teachers, volunteers, and contractors, 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
- Behaved or may have behaved in a way that indicates they may not be suitable to work with children, including in relation to behaviour that may have happened outside of TCAT responsibilities that might make the individual unsuitable to work with children

Procedures for managing allegations that do not meet the harms threshold (also known as 'low-level concerns') are not covered in this policy. Low-level concerns will not be viewed as insignificant, but as any concerns that do not meet the harms threshold set out above. A low-level concern is any concern that an adult working in or on behalf of TCAT may have acted in a way that:

- Is inconsistent with the Staff Code of Conduct, including inappropriate conduct outside of work

- Does not meet the allegations threshold or is otherwise not considered serious enough to consider a referral to the LA designated officer (LADO)

TCAT's Low-Level Concerns Policy outlines the procedures for dealing with allegations that do not meet the harms threshold.

For the purpose of this policy "allegation" refers to allegations that meet the harms threshold.

### **3. Staff covered by this policy**

This policy covers allegations against those working in or on behalf of TCAT in a paid or unpaid capacity, including members of staff, supply teachers, volunteers, and contractors.

In some cases, TCAT will have to deal with an allegation against an individual not directly employed by them, e.g., supply staff provided by an employment agency, where TCAT's disciplinary procedures do not fully apply because agencies will have their own procedures.

In these cases, TCAT will ensure allegations are dealt with properly and will often take the lead on dealing with the allegation as it has access to all of the necessary information. Under no circumstances will TCAT decide to cease to use a supply teacher due to safeguarding concerns without finding out the facts and liaising with LADO to determine a suitable outcome.

Any supply agencies used by TCAT will be informed of the process for managing allegations. TCAT will also take account of the agency's policies and their duty to refer to the DBS as personnel suppliers.

If an allegation is made against a Trustee or Governor, TCAT will follow their local procedure. Where an allegation is substantiated, TCAT will follow the procedures to consider removing the Trustee or Governor from office.

For the purposes of this policy "member of staff" refers to staff, supply staff, volunteers, and contractors.

### **4. Role and responsibilities**

The Governing Board will be responsible for:

- Ensuring this policy is implemented consistently across TCAT
- Ensuring welfare support is put in place for staff subject to allegations
- Making the final decision of whether a member of staff subject to an allegation should be suspended

The Chair of the Governing Board will be responsible for acting as the case manager for allegations relating to the Executive Headteacher/CEO.

The Executive Leader for Safeguarding and Inclusion or for Associate Staff the Chief Finance Officer, reporting to the Executive Headteacher/CEO, will be responsible for acting as the case manager for allegations unless the allegation relates to them or there would be a conflict of interest if they were the case manager.

The case manager will be responsible for:

- Conducting a basic enquiry as soon as an allegation is reported
- Leading investigations into allegations
- Working with the LADO and the Executive Headteacher/CEO when dealing with allegations

The DSL will be responsible for making referrals to CSCS and/or the police where necessary.

The LADO will provide advice and guidance to TCAT when considering allegations. Their role is not to investigate the allegation, but to ensure that an appropriate investigation is carried out.

## **5. Reporting concerns and allegations**

Staff must report allegations without delay, in line with the following reporting lines:

- Allegations regarding another member of staff will be reported to the Executive Headteacher/CEO or strictly in their absence the Executive Leader for Safeguarding and Inclusion or Chief Finance Officer. Allegations disclosed to the Headteacher/Head of School must pass the information on in line with this policy at the earliest opportunity
- Allegations regarding the Executive Headteacher/CEO will be reported to the Chair of the Governing Body

Where there is a conflict of interest in reporting the allegation to the Executive Headteacher/CEO, staff will report the concern directly to the LADO. Information regarding the identity of the LADO can be found on the LA's website.

Where a pupil makes a disclosure to a member of staff about the behaviour of another member of staff, staff must follow the reporting lines above.

Once an allegation has been made, a case manager will be assigned to lead the investigation. The case manager will be the Executive Leader for Safeguarding and Inclusion or the Chief Finance Officer. Where the Executive Headteacher/CEO is the subject of an allegation, the Chair of the Governing Board will act as the case manager.

## **6. Initial response**

CSCS and, as appropriate, the police will be contacted immediately if a child has been harmed, there is an immediate risk of harm to a child, or the situation is an emergency. These reports will be made in line with TCAT's Child Protection and Safeguarding Policy.

Before contacting the LADO, the case manager will conduct a basic enquiry to establish the facts to help them determine whether there is any foundation to the allegation. During this basic enquiry, the case manager will ensure they collect any information that will be required by the LADO and will be careful not to jeopardise any potential future police investigation.

Once the case manager has conducted the basic enquiry, they will contact the LADO. The case manager and LADO will discuss the nature, content and context of the allegation and decide if:

- No further action is needed
- A strategy discussion should take place

- There should be involvement from the police and/or CSCS

Where the case manager is concerned about the welfare of other children in the community or the staff member's family, they will discuss these concerns with the DSL and conduct a risk assessment of the situation. Where necessary, the DSL will make a referral to CSCS.

If the allegation is about physical contact, e.g., restraint, the strategy discussion or initial evaluation with the LADO will consider that teachers and other staff are entitled to use reasonable force to control or restrain children in certain circumstances, including dealing with disruptive behaviour.

### **No further action**

Where the initial assessment leads to no further action, the case manager and LADO will:

- Record the decision and justification for it
- Agree on what information should be put in writing to the individual concerned and by whom

### **Strategy discussion**

If there is cause to suspect a child is suffering, or is likely to suffer, significant harm, a strategy discussion involving the police and/or CSCS will be convened. Strategy discussions will take place in line with the 'Working Together to Safeguarding Children' statutory guidance.

CSCS will convene the meeting to determine the child's welfare and plan rapid future action if there is reasonable cause to suspect the child is suffering or likely to suffer significant harm. A representative of TCAT may be invited to the meeting.

The discussion will be used to:

- Share available information
- Agree the conduct and timing of any criminal investigation
- Decide whether enquires under section 47 of the Children Act 1989 must be undertaken

### **Investigation**

Where it is clear that an investigation by the police or CSCS is unnecessary, or the strategy discussion or initial assessment decides that this is the case, the LADO will discuss the next steps with the case manager.

Where further enquiries are required to enable a decision about how to proceed, the LADO and case manager will discuss how the investigation will be undertaken and who should conduct the investigation. In most cases, the investigation will be undertaken by an independent investigator, nominally this will be Hoople HR, in so doing it ensures TCAT resources are utilised to best effect and ensures full impartiality.

The case manager will monitor the progress of the investigation to ensure that it is dealt with thoroughly, fairly, and as quickly as possible. The first review will take place no later than four weeks after the initial assessment where possible. Dates of subsequent reviews will be set at the review meeting if the investigation continues and will be conducted at least at fortnightly

intervals, whilst noting that most investigations are concluded rapidly to ensure safeguarding is upheld and in the interests of staff wellbeing.

### **Informing the member of staff**

The member of staff subject to an allegation should be informed of the allegation and given as much information as possible, unless there are good reasons not to. In cases where the allegation needs to be reported to CSCS and/or the police, the case manager will seek advice from the LADO, CSCS and police as appropriate regarding what information can be shared.

### **Supply staff**

Where an allegation relates to a member of supply staff, the agency will be fully involved and cooperate with any enquiries from TCAT, LADO, police and/or CSCS. In these cases, TCAT will usually take the lead as the agency will not have direct access to the required information.

The allegations management meeting which is often arranged by the LADO should address issues such as information sharing, to ensure that any previous concerns or allegations known to the agency or agencies are considered by TCAT during the investigation.

## **7. Confidentiality**

The case manager and LADO will discuss what information will be shared and with whom, alongside which actions will be taken to manage any possible breaches of confidentiality or press interest.

Information regarding an allegation will only be shared with necessary parties. Every effort will be made to protect the privacy of all parties involved in an allegation. Confidentiality will also be maintained to ensure a fair investigation can be undertaken.

All parties involved in an allegation will be made aware of the requirement to maintain confidentiality and guard against unwanted publicity about any allegations made against teachers whilst investigations are in progress.

Breaches in confidentiality will be taken seriously and may warrant a separate investigation.

TCAT will not provide the media with any information regarding an allegation.

## **8. Suspension**

Suspension will never be an automatic response when an allegation is reported – all options to avoid suspension will be considered prior to taking that decision.

The case manager will carefully consider whether the circumstances warrant suspension from contact with children at the school, or until the allegation is resolved. Suspension will be considered only in cases where there is cause to suspect a child or other children at a TCAT school is/are at risk of harm, or the case is so serious that it might be grounds for dismissal.

The case manager will seek advice from the TCAT's HR provider, Hoople HR, and the LADO, as well as the police and CSCS where they have been involved. The following options will be considered by the case manager before requesting the suspension of a member of staff:



- Redeploying the member of staff within TCAT so that they do 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 member of staff to alternative work in TCAT so the individual does not have unsupervised access to children
- Moving the child or children to classes where they will not come into contact with the member of staff – this decision will only be made if it is in the best interests of the child or children involved and takes account of their views
- Temporarily redeploying the member of staff to another role in a different location, e.g., to an alternative school, where available

The Governing Board will make the final decision on whether the member of staff should be suspended. Where a strategy discussion, or initial assessment, concludes that there should be enquiries by CSCS, and/or an investigation by the police, the LADO will seek the views of the police and CSCS regarding whether the member of staff should be suspended from contact with children. Police involvement does not make it mandatory to suspend a member of staff. The decision to suspend will be made on a case-by-case basis following a risk assessment of whether the person poses a risk of harm to children.

If immediate suspension is considered necessary, the case manager will record the rationale and justification for this decision, alongside the alternatives to suspension that were considered and why they were rejected. No suspension can be requested from the Governing Board unless the Executive Headteacher/CEO, based on the evidence and advice presented concurs.

Where suspension is deemed necessary, written confirmation will be given to the member of staff within one working day where possible, which will provide as much detail as appropriate for the reasons for the suspension. The member of staff will be told immediately who their named contact is within TCAT for the period of their suspension.

Where an allegation relates to a member of supply staff, the Governing Board will discuss with the supply agency or agencies where the member of staff is working across a number of schools, whether it is appropriate to suspend the individual, or redeploy them to another part of TCAT, whilst an investigation is carried out.

Where TCAT is made aware that the Secretary of State has made an interim prohibition order, in respect of an individual who works for TCAT, immediate action will be taken by TCAT to ensure the individual does not carry out work in contravention of the order, i.e., not carrying out teaching work, pending the findings of the TRA investigation.

The following pay arrangements will be implemented while a member of staff is suspended, or an interim prohibition order is in place:

- Whilst suspended during the investigation of an allegation, staff will remain on their full pay without any adjustment until the suspension is lifted or they are sanctioned if an allegation is proven

## **9. Supporting those involved**

### **Pupils and parents**

The welfare of the pupil(s) involved in an allegation will be paramount. Pupils involved will be fully supported in line with the Child Protection and Safeguarding Policy.

The parents of the pupil(s) involved in an allegation will be told about the allegation as soon as possible if they do not already know about it, unless notifying the parents would put the pupil at further risk. The case manager will work with the LADO to agree who should be informed about the allegation.

Parents will be made aware of the requirement to maintain confidentiality and guard against unwanted publicity about any allegations made against teachers whilst investigations are in progress.

Parents will be kept informed about the progress of the allegation, including the outcome and any action taken.

### **Staff who report an allegation**

TCAT will ensure that all staff feel equipped and supported to report any allegations or concerns.

### **Staff subject to an allegation**

Any staff member subject to an allegation will be offered welfare support. TCAT has a duty of care to all staff and will:

- Manage and minimise the stress caused by the allegation
- Inform the member of staff as soon as possible about the allegation, explaining the likely course of action, guided by the LADO, and the police where necessary
- Advise the member of staff to contact their trade union representative, or a colleague for support
- Appoint a named representative to keep the staff member informed about the progress of the case
- Provide access to counselling or medical advice where appropriate
- Not prevent social contact with work colleagues and friends, when staff are suspended, unless there is evidence to suggest this may prejudice the gathering of evidence

Any information regarding an allegation is confidential and will not ordinarily be shared with other staff or with pupils or parents who are not directly involved in the investigation.

## **10. Outcomes**

The following definitions will be used when determining the outcome of an allegation:

- **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 cause harm to the person 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
- **Unfounded:** There is no evidence or proper basis which supports the allegation being made

The options available to TCAT will depend on the nature and circumstances of the allegation and the evidence and information available.

## **11. Referral to the DBS**

If an allegation is found to be substantiated and the member of staff is dismissed, resigns, or otherwise ceases to provide their services to TCAT, or TCAT ceases to use the person's services, TCAT has a legal duty to make a referral to the DBS. For members of teaching staff at TCAT, the case manager in consultation with the Executive Headteacher/CEO will consider whether to refer the matter to the TRA to consider prohibiting the individual from teaching.

TCAT will also make a referral to the DBS where it is considered an individual has engaged in conduct that harmed, or is likely to harm, a child, or if they otherwise pose a risk of harm to a child.

## **12. Criminal investigations**

Some allegations may result in a criminal investigation taking place. The police will inform TCAT and the LADO when:

- A criminal investigation and any subsequent trial is complete
- It is decided to close an investigation without charge
- It is decided not to continue to prosecute after the person has been charged

The case manager and LADO will discuss whether any further action against the member of staff is appropriate, including disciplinary action.

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

If an allegation is determined to be unsubstantiated, unfounded, false, or malicious, the LADO and the case manager will consider whether the pupil and/or the person who has made the allegation is in need of help or may have been abused by someone else and this is a cry for help. If this is the case, the DSL will decide whether a referral to CSCS needs to be made.

If a report is shown to be deliberately invented or malicious, TCAT will consider whether any disciplinary action is appropriate against the individual who made it, in line with the Disciplinary Policy and Procedure (for staff reporters) or Conduct for Learning (Behaviour) Policy (for pupil reporters).

## **14. Returning to work**

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 and seek advice from TCAT's HR provider and the LADO where necessary. 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.

## **15. Resignations**

If the member of staff leaves, resigns, or ceases to provide their services during an investigation, TCAT will not stop the investigation and it will be completed.

The staff member subject to the allegation will be given a full opportunity to answer the allegation and make representations about it. The process of recording the allegation and supporting evidence and reaching a judgement on the allegation will continue even if the member of staff does not cooperate. The member of staff concerned will be notified of the conclusion of the allegation and sanctions that may be posed.

Other than where allegations are false, malicious, unsubstantiated, or unfounded, the outcome will be made clear when providing references to prospective employers within the time scope of any sanction imposed.

### **Settlement agreements**

TCAT will not use settlement agreements (also known as compromise agreements) where there are allegations that indicate a person is a risk or poses a risk of harm to children or is deemed not suitable to work with children. A settlement agreement is an agreement by which a person agrees to resign if the employer agrees to not pursue disciplinary action and both parties agree a form of words to be used in any future reference.

In limited circumstances, it may be appropriate to use settlement agreements to end the employment relationship on agreed terms. Where a settlement agreement is used, this will not prevent TCAT from:

- Fulfilling its legal duty to refer cases to the DBS where the referral criteria are met
- Providing a fair, accurate and truthful reference that is not misleading to potential employers when requested
- Considering whether to make a referral to the TRA where the criteria are met

## **16. Record keeping**

Any details of allegations that are found to be malicious or false will be removed from the staff member's personnel record unless they give their consent for the information to be retained.

For all other allegations, the following information will be kept on the staff member's personnel file:

- A clear and comprehensive summary of the allegation
- Details of how the allegation was followed up and resolved
- Details of any action taken, and decisions reached and the outcome
- A copy provided to the person concerned, where agreed by CSCS or the police
- A declaration on whether the information will be referred to in any future reference

TCAT will retain records which contain information about allegations of sexual abuse for the Independent Inquiry into Child Sexual Abuse (IICSA), for the term of the enquiry. All other records will be retained until the staff member subject to the allegation has reached normal pension age or for a period of 10 years from the date of the allegation, whichever is longer.

All records will be managed in line with TCAT's Data Protection Policy and Records Management Policy.

## 17. References

References will be provided in line with TCAT's Safer Recruitment Policy.

TCAT 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.

## 18. Non-recent allegations

If an adult makes an allegation to TCAT that they were abused as a child, they will be advised to report the allegation to the police. Non-recent allegations made by a child 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.

## 19. Monitoring and review

Throughout the process in handling allegations and at conclusion of a case in which an allegation is substantiated, the LADO will review the circumstances of the case with the case manager to determine whether there are any improvements to be made to TCAT's procedures to help prevent similar events in the future.

This policy will be reviewed annually by the Executive Headteacher/CEO, the Executive Leader for Safeguarding and Inclusion, the Chief Finance Officer and Governing Board. Any changes to this policy will be communicated to all staff and other relevant stakeholders, e.g., supply agencies.

Signed by:

_____	Executive Headteacher/CEO	Date: _____
_____	Chair of Governing Board	Date: _____

