



Cowbit St Marys' Church of England Primary School

Policy for Confidential Reporting and for Dealing with Allegations of Abuse Against Staff and Volunteers

Aims of Policy

This Policy aims to lay down the procedures that should be followed if anyone (staff or parents) has concerns about the actions of another member of staff (paid or volunteer) There is a confidential reporting system available, or the matter can be reported to the Headteacher (or the Chair of Governors) as detailed herein.

If an allegation is made against a member of staff the quick resolution of that allegation should be a clear priority to the benefit of all concerned. Any unnecessary delays should be eradicated. It is also essential that any matter is dealt with in a fair and consistent way that provides effective protection for the child and at the same time supports the person who is the subject of the allegation.

In response to an allegation all other options should be considered before suspending a member of staff; suspension should not be the default option. An individual should be suspended only if there is no reasonable alternative. If suspension is deemed appropriate, the reasons and justification should be recorded by the employer and the individual notified of the reasons.

Role of Chair of Governors

The Chair of the Governing Body will work with the Headteacher (unless the allegation concerns the Headteacher) and local authority officers to confirm the facts about individual cases and reach a joint decision on the way forward in each case. Chairs have a crucial role to play in deciding courses of action, including disciplinary action, in those cases where a criminal investigation may not be required. In cases where allegations have been substantiated, the Chair should work with the LA designated officer and the Headteacher to determine whether there are any improvements to be made to the school's procedures or practice to help prevent similar events in the future.

Confidential Reporting

Where a member of staff has concerns about the actions or conduct of another member of staff these should be reported to the Headteacher who will take the necessary steps, including investigations in accordance with the Local Authority Confidential Reporting procedures. A copy is attached and forms part of this Policy. When the concerns relate to the actions or conduct of the Headteacher, these should be reported to the Chair of the Governing Body. The Chair is responsible for liaising

with the Local Authority in accordance with the procedures on Confidential Reporting as laid down by the Local Authority.

Under the Local Authority Confidential Reporting procedures, concerns can also be raised by telephone or in writing. Details on how to do this are included in the Confidential Reporting procedures attached.

The procedures encourage staff to feel confident in raising serious concerns, and provides avenues for staff to raise such concerns and receive feedback on any action taken. Staff will be protected from any reprisals or victimisation in respect of any concerns raised in good faith.

Examples of concerns which might be raised:

- Conduct which is an offence or a breach of the law;
- Disclosures which relate to miscarriage of justice;
- Health and Safety issues;
- Unauthorised use of public funds;
- Possible fraud or corruption;
- Sexual or physical abuse of others;
- Unethical conduct/Improper conduct.

The procedures encourage staff to put their name to the allegation as concerns expressed anonymously can be less powerful. However, the absence of a name will not prevent an investigation taking place.

If an allegation made in good faith is not proven, no action will be taken against the staff member who raised the concern. If, however, a malicious or vexatious allegation is made or one motivated by personal gain, then disciplinary action will be taken against the reporting member of staff.

Procedure for Managing Allegations against Staff

Scope

This procedure deals with the management of cases of allegations where there is reasonable cause to believe a child is suffering, or is likely to suffer, significant harm. It also caters for cases of allegations that might indicate a member of staff is unsuitable to continue to work with children in their present position, or in any capacity. It will also be used in respect of all cases in which it is alleged that a member of staff 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/she would pose a risk of harm if they work regularly or closely with children.

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; and
- Consideration by Cowbit St Mary's School of disciplinary action in respect of the member of staff.

Some cases may also need to be referred to the Disclosure and Barring Service (DBS) for consideration of including the staff member on the barred lists, or for consideration by professional bodies or regulators.

Initial Considerations

□ Some procedures for dealing with allegations need to be applied with common sense and judgment. Many cases may well either not meet the criteria or may do so without warranting consideration of either a police investigation or enquiries by local authority children's social care services. In these cases, local arrangements should be followed to resolve cases without delay.

□ Some rare allegations will be so serious they require immediate intervention by children's social care services and/or police. The Local Authority Designated Officer – LADO – (Rachel Powis, Local Authority Designated Officer) should be informed of all allegations that are reported and appear to meet the criteria so they can consult police and children's social care services as appropriate. [01522 554668]

□ The following definitions should be used when determining the outcome of allegation investigations:

- a. **Substantiated:** there is sufficient identifiable evidence to prove the allegation;
- b. **False:** there is sufficient evidence to disprove the allegation;
- c. **Malicious:** there is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false;
- d. **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 incident or was mistaken about what they saw. Alternatively they may not have been aware of all the circumstances.
- e. **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.

□ In the first instance, the Headteacher/Chair of Governors (the 'case manager') should immediately discuss the allegation with the LADO. The purpose of an initial discussion is for the LADO and the case manager to consider the nature, content and context of the allegation and agree a course of action. The LADO may ask the case manager to provide or obtain relevant or additional information, such as previous history, whether the child or their family have made similar allegations and the individual's current contact with children. There may be situations when the case manager will want to involve the police immediately, for example if the person is deemed to be an immediate risk to children or there is evidence of a criminal offence. Where there is no such evidence, the case manager should discuss the allegations with the LADO in order to help determine whether police involvement is necessary.

□ The initial sharing of information and evaluation may lead to a decision that no further action is to be taken in regard to the individual facing the allegation or concern; in which case this decision and a justification for it should be recorded by both the case manager and the LADO, and agreement reached on what information should be put in writing to the individual concerned and by whom. The case manager

should then consider with the LADO what action should follow both in respect of the individual and those who made the initial allegation.

□ The case manager should inform the accused person about the allegations as soon as possible after consulting the LADO. It is extremely important that the case manager provides them with as much information as possible at that time. However, where a strategy discussion is needed, or police or children's social care services need to be involved, the case manager should not do that until those agencies have been consulted and have agreed what information can be disclosed to the accused. Employers must consider carefully whether the circumstances of a case warrant a person being suspended from contact with the children at the school or whether alternative arrangements can be put into place until the allegation or concern is resolved. All options to avoid suspension should be considered prior to taking that step. (Please see further information on suspension herein) .

□ If the allegation is not demonstrably false or unfounded, and there is cause to suspect a child is suffering or is likely to suffer significant harm, a strategy discussion should be convened in accordance with 'Working Together to Safeguard Children'. If the allegation is about physical contact, the strategy discussion or initial evaluation with the police should take into account that teachers and other school staff are entitled to use reasonable force to control or restrain pupils in certain circumstances, including dealing with disruptive behaviour.

□ Where it is clear that an investigation by the police or children's social care services is unnecessary, or the strategy discussion or initial evaluation decides that is the case, the LADO should discuss the next steps with the case manager. In those circumstances, the options open to the school depend on the nature and circumstances of the allegation and the evidence and information available. This will range from taking no further action to dismissal or a decision not to use the person's services in future. Suspension should not be the default position; an individual should be suspended only if there is no reasonable alternative.

□ In some cases, further enquiries will be needed to enable a decision about how to proceed. If so, the LADO should discuss with the case manager how and by whom the investigation will be undertaken. In straightforward cases, the investigation should normally be undertaken by a senior member of the school staff.

□ However, in other circumstances, such as lack of appropriate resource within the school, or the nature or complexity of the allegation, will require an independent investigator.

Supporting those involved

□ Employers have a duty of care to their employees. They should act to manage and minimise the stress inherent in the allegations process. Support for the individual is key to fulfilling this duty. Individuals should 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. The individual should be advised to contact their trade union representative, if they have one, or a colleague for support. They should also be given access to welfare counselling or medical advice where available.

□ The case manager should appoint a named representative to keep the person who is the subject of the allegation informed of the progress of the case and consider what other support is appropriate for the individual. This may include support via the local authority occupational health or employee welfare arrangements. Particular care needs to be taken when employees are suspended to make sure they are kept informed of both the progress of their case and current work-related issues. Social contact with colleagues and friends should not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

□ Parents or carers of a child or children involved should be told about the allegation as soon as possible if they do not already know of it. However, where a strategy discussion is required, or police or children's social care services need to be involved, the case manager should not do so until those agencies have been consulted and have agreed what information can be disclosed to the parents or carers. Parents or carers should also be kept informed about the progress of the case, and told the outcome where there is not a criminal prosecution, including the outcome of any disciplinary process. The deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, cannot normally be disclosed, but the parents or carers of the child should be told the outcome in confidence. (In deciding what information to disclose, careful consideration should be given to the provisions of the Data Protection Act 1998, the law of confidence and, where relevant, the Human Rights Act 1998.) Parents or carers should also be made aware of the prohibition on reporting or publishing allegations about teachers in section 141F of the Education Act 2002 (see below) If parents or carers wish to apply to the court to have reporting instructions removed, they should be told to seek legal advice.

□ 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 as appropriate, should consider what support the child or children involved may need.

Confidentiality

□ It is extremely important that when an allegation is made, the school makes every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. 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 (where that identification would identify the teacher as the subject of the allegation). The reporting restrictions apply until the point that the accused person is charged with an offence, or until the Secretary of State or the General Teaching Council for Wales publishes information about an investigation or decision in a disciplinary case arising from the allegation. The reporting restrictions also cease to apply if the individual to whom the restrictions apply effectively waives their right to anonymity by going public themselves or by giving written consent for another to do so or if a judge lifts restrictions in response to a request to do so.

□ The legislation imposing restrictions makes clear that 'publication' of material that may lead to the identification of the teacher who is the subject of the allegation is

prohibited. 'Publication' includes 'any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public'. This means that a parent who, for example, published details of the allegation on a social networking site would be in breach of the reporting restrictions (if what published could lead to the identification of the teacher by members of the public).

In accordance with the Association of Chief Police Officers' (ACPO) guidance, the police will not normally provide any information to the press or media that might identify an individual who is under investigation, unless and until the person is charged with a criminal offence. (In exceptional cases where the police would like to depart from that rule, e.g. an appeal to trace a suspect, they must apply to a magistrates' court to request that reporting restrictions be lifted.)

The case manager should take advice from the LADO, police and children's social care services to agree the following:

- Who needs to know and, importantly, exactly what information can be shared;
- How to manage speculation, leaks and gossip;
- What, if any, information can be reasonably given to the wider community to reduce speculation; and
- How to manage press interest if and when it should arise.

Resignations and 'Compromise Agreements'

If the accused person resigns, or ceases to provide their services, this should not prevent an allegation being followed up in accordance with these guidance. 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 accused person concerned refuses to cooperate with the process. Wherever possible the accused person should be given a full opportunity to answer the allegations and make representations about it, but 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 accused person 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 an accused 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, should not be used in these cases. 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 Disclosure and Barring Service (DBS) where circumstances require that.

Record Keeping

- Details of allegations that are found to have been malicious should be removed from personnel records. However, for all other allegations it is important that a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, is kept on the confidential personnel file of the accused, and a copy provided to the person 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 re-surfaces after a period of time. The record should be retained at least until the accused has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.
- The Information Commissioner has published guidance on employment records in its Employment Practices Code and supplementary guidance, which provides some practical advice on employment retention.

References

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

Timescales

- 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. Target timescales are shown below: the time taken to investigate and resolve individual cases depends on a variety of factors including the nature, seriousness and complexity of the allegation, but these targets should be achieved in all but truly exceptional cases. It is expected that 80% of cases should be resolved within one month, 90% within three months, and all but the most exceptional cases should be completed within 12 months.
- For those cases where it is clear immediately that the allegation is unfounded or malicious, they should be resolved within one week. Where the initial consideration decides that the allegation does not involve a possible criminal offence, it will be for the employer to deal with it, although if there are concerns about child protection, the employer should discuss with the LADO. In such cases, if the nature of the allegation does not require formal disciplinary action, the employer should institute appropriate action within three working days. If a disciplinary hearing is required and can be held without further investigation, the hearing should be held within 15 working days.

Oversight and Monitoring

- The LADO has overall responsibility for oversight of the procedures for dealing with allegations; for resolving any inter-agency issues; and for liaison with the Local Safeguarding Children Board (LSCB) on the subject. The LADO will provide advice

and guidance to the case manager, in addition to liaising with the police and other agencies, and monitoring the progress of cases to ensure that they are dealt with as quickly as possible consistent with a thorough and fair process. Reviews should be conducted fortnightly or monthly intervals, depending on the complexity of the case.

- Police will also identify officers who will be responsible for:
 - Liaising with the LADO;
 - Taking part in the strategy discussion or initial evaluation;
 - Subsequently reviewing the progress of those cases in which there is a police investigation; and
 - Sharing information on completion of the investigations or any prosecution.
- If the strategy discussion or initial assessment decides that a police investigation is required, the police will also set a target date for reviewing the progress of the investigation and consulting the Crown Prosecution Service (CPS) about whether to: charge the individual; continue to investigate; or close the investigation. Wherever possible, that review should take place no later than four weeks after the initial evaluation. Dates for subsequent reviews, ideally at fortnightly intervals, should be set at the meeting if the investigation continues.

Suspension

- The possible risk of harm to children posed by an accused person should be evaluated and managed in respect of the child(ren) involved in the allegations. Some rare cases will require the case manager to consider suspending the accused until the case is resolved. Suspension must not be an automatic response when an allegation is reported; all options to avoid suspension should be considered prior to taking that step. If the case manager is concerned about the welfare of other children in the community or the teacher's family, those concerns should be reported to the LADO or police. But suspension is highly unlikely to be justified on the basis of such concerns alone.
- Suspension should be considered only in a case where there is cause to suspect a child or other children at the school is/are at risk of significant harm, or the case is so serious that it might be grounds for dismissal. However, a person should not be suspended automatically; the case manager must consider carefully whether the circumstances warrant suspension from contact with children at the school or until the allegation is resolved, and may wish to seek advice from their personnel advisor and the LADO.
- The case manager should also consider whether the result that would be achieved by immediate suspension could be obtained by alternative arrangements. In many cases an investigation can be resolved quickly and without the need for suspension. If the LADO, police and children's social care services have no objections to the member of staff continuing to work during the investigation, the case manager should be as inventive as possible to avoid suspension. Based on assessment of risk, the following alternatives should be considered by the case manager before suspending a member of staff:
 - Redeployment within the school 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 to alternative work in the school so that the individual does not have unsupervised access to children;
- Moving the child or children to classes where they will not come into contact with the member of staff, making it clear that this is not a punishment and parents have been consulted; or
- Temporarily deploying the member of staff to another role in a different location, for example to an alternative school or work for the local authority or academy trust.

□ These alternatives allow time for an informed decision regarding the suspension and possibly reduces the initial impact of the allegation. This will, however, depend upon the nature of the allegation. The case manager should consider the potential permanent professional reputational damage to employees that can result from suspension where an allegation is later found to be unsubstantiated, unfounded, or maliciously intended.

□ If immediate suspension is considered necessary, the rationale and justification for such a course of action should be agreed and recorded by both the case manager and the LADO. This should also include what alternatives to suspension have been considered and why they were rejected.

□ Where it has been deemed appropriate to suspend the person, written confirmation should be despatched within one working day, giving as much details as appropriate for the reasons for the suspension. It is not acceptable for an employer to leave a person who has been suspended without any support. The person should be informed at the point of their suspension who their named contact is within the school and provided with their contact details.

□ Children's social care services or the police cannot require the case manager to suspend a member of staff or a volunteer, although they should give appropriate weight to their advice. The power to suspend is vested in the headteacher of the school, or the governing body of the school who are the employers of staff at the school. However, where a strategy discussion or initial evaluation concludes that there should be enquiries by the children's social care services and/or an investigation by the police, the LADO should 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 in order to inform the school consideration of suspension. Police involvement does not make it mandatory to suspend a member of staff; this decision should be taken on a case-by-case basis having undertaken a risk assessment.

Information Sharing

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

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

□ Children's social care services should adopt a similar procedure when making enquiries to determine whether the child or children named in the allegation is/are in need of 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 employer without delay.

Action following a criminal investigation or a prosecution

□ The police or the CPS should inform the employer and LADO immediately when a criminal investigation and any subsequent trial is complete, or if it is decided to close an investigation without charge, or not to continue to prosecute the case after the person has been charged. In those circumstances the LADO should discuss with the case manager whether any further action, including disciplinary action, is appropriate and, if so, how to proceed. The information provided by the police and/or children's social care services should inform that decision. The options will depend on the circumstances of the case and the consideration will need to take into account the result of the police investigation or trial, as well as the different standard of proof required in disciplinary and criminal proceedings.

Action on conclusion of a case

□ 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/her services, the LADO should discuss with the case manager and their personnel advisor whether to refer the case to DBS for consideration of inclusion on the barred lists; or to refer to the Teaching Agency.

□ There is a legal requirement for employers to make a referral to the DBS where they think that an individual has engaged in conduct (including inappropriate sexual conduct) that harmed (or is likely to harm) a child; or if a person otherwise poses a risk of harm to a child. In such circumstances, the duty to refer an individual to the DBS arises where an employer has removed the individual from relevant work with children or the person has chosen to cease relevant work in circumstances where they would have been removed had they not done so. The DBS will consider whether to bar the person from working in regulated activity, which will include most work in schools and other educational establishments. Schools have a statutory duty to make reports, and to provide relevant information to the DBS. Referrals should be made as soon as possible after the resignation or removal of the member of staff involved and within one month of ceasing to use the person's services.

□ Professional misconduct cases should be referred to the relevant regulatory body.

□ Where it is decided on the conclusion of the case that a person who has been suspended can return to work the case manager 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 case manager should also consider how the person's contact with the child or children who made the allegation can best be managed if they are still a pupil at the school.

Learning Lessons

□ At the conclusion of a case in which an allegation is substantiated the LADO should review the circumstances of the case with the case manager to determine whether there are any improvements to be made to the school’s procedures or practice to help prevent similar events in the future. This should include issues arising from the decision to suspend a member of staff, the duration of the suspension and whether or not suspension was justified. Lessons should also be learnt from the use of suspension when the individual is subsequently reinstated. The LADO and case manager should consider how future investigations of a similar nature could be carried out without suspending the individual.

Action in respect of unfounded or malicious allegations

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

Review

This Policy will be reviewed annually.

Approved by Governors ____/____/____

Signed by Chair of Governors

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To be reviewed January 2019