



The de Ferrers Trust

# Allegations of abuse against staff procedure

Adopted by the Board on  
Consulted with trade unions

March 2018

Formatted: Font: Bold

Formatted: Centered

## Contents

1	Introduction	2
2	Principles	2
3	Managing Communications	2
4	Supporting the employee	3
5	Suspension	3
6	When to start the process	4
7	Procedure	4
8	Investigation	6
9	Action	6
10	Resignations, Settlement Agreements and references	6
11	Referral to DBS and the National College for Teaching and Learning (NCTL)	7
12	Record keeping	7

## 1 Introduction

- 1.1 This procedure should be used when managing cases of allegations that might indicate that a person may pose a risk of harm if they continued to work in contact with children should they be proven.
- 1.2 It should be used in all cases where it is alleged that a teacher, or member of staff, including volunteers and governors, in one of our Trust academies that provides education for children under 18 years of age, has:
- (a) Behaved in a way that has harmed a child, or may have harmed a child;
  - (b) Possibly committed a criminal offence against or related to a child; or
  - (c) Behaved towards a child or children in a way that indicates he or she would pose a risk of harm if they work regularly or closely with children.
- 1.3 The purpose of this procedure is to provide Trust academies with:
- (a) Information and guidance about managing allegations of potential child abuse against an employee, volunteer and governor; and
  - (b) Details of the statutory procedures
- 1.4 This procedure should be read in conjunction with the following guide;
- (a) Keeping Children Safe in Education 2016 – from the Department of Education
- 1.5 All educational establishments have a statutory duty to assist Local Authority Children's Social Care acting on behalf of children in need or conducting enquiries into allegations of child abuse.
- 1.6 In the first instance the procedures for dealing with allegations need to be applied with common sense and judgement. Many cases may not meet the criteria above (1.4) and therefore will not require the involvement of other agencies. In these cases, internal procedures should be used to resolve the case without delay.

## 2 Principles

- 2.1 Trust staff are vulnerable to allegations of abuse and it is therefore expected that staff conduct themselves in a way that minimises the risk of actions being construed as illegal or professionally inappropriate.
- 2.2 Allegations made against staff may be false, malicious or misplaced. They may also be true (substantiated) and it is therefore essential that anyone dealing with allegations of this nature keep an open mind.
- 2.3 Every effort should be made to resolve cases as quickly as possible consistent with the need for a fair and thorough examination of the allegations.

## 3 Managing Communications

- 3.1 The person subject to the allegations should be kept informed of the progress of the case and offered appropriate support. However, in some circumstances the Police or Social Care may need certain information to be withheld if it could prejudice their enquiries.

3.2 Parents or carers of any children directly involved should also be kept informed and in this situation they are entitled to be told whether internal procedures have been followed to address any policy breach.

3.3 Every effort must be made to maintain confidentiality while an allegation is being investigated. Staff have the protection of the Human Rights Act 1998 in relation to their privacy regarding such allegations.

#### 4 **Supporting the employee**

The Trust has a duty of care to their employees and should provide the relevant support for any member of staff accused of abuse. In addition each academy will:

- (a) Ensure that the employee is kept up to date and given a full explanation of the allegations and possible action unless there is an objection from the Police or LADO;
- (b) Advise the employee to speak to their trade union or a trusted colleague for support as well as providing them with information on any welfare counselling or medical advice; and
- (c) Provide a named representative from their academy to keep them fully informed as to the progress of their case.

#### 5 **Suspension**

5.1 A decision to suspend shall not be made automatically unless in the case of an immediate referral to children's social care and shall only be considered where there is cause to suspect a child or children are at risk of harm or the case is so serious it may be grounds for dismissal. A person shall not be automatically suspended following an allegation.

5.2 Suspension is not a sanction or disciplinary action but that being said it will not be undertaken without good reason. Academies can consider alternatives such as:

- (a) Paid leave;
- (b) Redeployment;
- (c) Supervise the persons work;
- (d) Alternative work within the Academy/Trust;
- (e) Moving the student or students from the classroom or the persons' responsibility.

5.3 Circumstances which would normally warrant suspension include:

- (a) Where there is evidence that the student or students would continue to be at risk;
- (b) Where the allegations are so serious that they constitute gross misconduct and that there is sufficient evidence to suggest that the allegations are true;
- (c) Where it is necessary to allow the investigation to continue unimpeded;
- (d) Where a police investigation is being undertaken and they have indicated that suspension is appropriate; or

(e) To protect the interests of the employee (this should be agreed with the employee prior to suspension).

5.4 If the decision is taken to suspend, the employee will be informed by letter which states why they have been suspended and what other options have been considered and the reason why those options have been rejected. The decision to suspend is the responsibility of the relevant person with delegated authority to suspend. Wherever possible, this will be communicated in a face-to-face meeting where the employee will have the right to representation.

#### 5.5 **Returning to work following a period of suspension**

5.5.1 Where it is decided that a person who has been suspended can return to work, the Academy will manage this process sensitively.

5.5.2 It may be that the person will require a phased return to work or counselling.

5.5.3 It would be advisable to manage communications with the rest of the Academy with the person concerned so that the right message is delivered.

### 6 **When to start the process**

6.1 A formal process should be used when it is alleged that a teacher or member of staff (including volunteers) has

- (a) Behaved in a way that has harmed a child, or may have harmed a child;
- (b) Possibly committed a criminal offence against or related to a child; or
- (c) Behaved towards a child or children in a way that indicates he or she would pose a risk of harm if they work regularly or closely with children.

6.2 The Local Authority Designated Officer (LADO) has the overall responsibility for oversight of the procedures, resolving inter-agency issues and for liaison with the Local Safeguarding Children Board (LSCB). Contact your LADO for advice and guidance on managing the case.

6.3 The LADO will be able to suggest how the matter should be dealt with, either through internal disciplinary procedures or via an inter-agency meeting. If the LADO suggests that internal procedures are not appropriate you should stop any internal investigations until you are instructed otherwise.

6.4 The inter-agency meeting will require relevant information about the person for whom the allegations are about such as start date, position, address, date of birth, any history in terms of disciplinary warnings, the date they last received child protection training, DBS check information and the date of the check. They will also need to confirm certain details about the alleged victim.

6.5 During this process the Police may become involved. Should the case warrant Police investigation, all internal investigations will be stopped. Police statements for use in any disciplinary investigations or hearings may be available if consent is given for their use.

### 7 **Procedure**

7.1 If an allegation is made, the member of staff hearing the allegation will immediately inform the academy Principal.

7.2 The Principal will discuss the content of the allegation with the LADO.

- 7.3 The purpose of the initial discussion is for the LADO and the Principal to consider the nature, content and context of the allegation and agree a course of action. The LADO may ask the Principal to provide or obtain relevant additional information, such as previous history, whether child or their family have made similar allegation and the individual's current contract with children.
- 7.4 There may be situations when the Principal, 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 Principal will discuss the allegations with the LADO in order to help determine whether police involvement is necessary.
- 7.5 If the allegation made to a member of staff concerns the Principal, the member of staff hearing the allegation will immediately inform the Chair of the Local Governing Body who will consult with the LADO. Should this be the case, the Chair of Local Governing Body will follow all the steps for the Principal, set out below.
- 7.6 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 will be recorded by both the Principal and the LADO, and agreement reached on what information should be put in writing to the individual concerned and by whom. The Principal will then consider with the LADO what action should follow both in respect of the individual and those who made the initial allegation.
- 7.7 The Principal should inform the accused person about the allegation as soon as possible after consulting the LADO. The Principal will provide 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 Principal will not do that until those agencies have been consulted, and have agreed what information can be disclosed to the accused.
- 7.8 The Principal will consider carefully whether the circumstances of a case warrant a person being suspended from contact with children at their Academy or whether alternative arrangements can be put in place until the allegation or concern is resolved. All options to avoid suspension should be considered prior to taking this step (see further information below).
- 7.9 If the allegation is not demonstrably false or unfounded, and there is cause to suspect a child is suffering or likely to suffer significant harm, a strategy discussion should be convened. 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 students in certain circumstances, including dealing with disruptive behaviour.
- 7.10 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 will discuss the next steps with the Principal. In those circumstances, the options open to the Principal 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 the future. Suspension will not be the default position: an individual would be suspended only if there is no reasonable alternative.
- 7.11 In some case, further enquiries will be needed to enable a decision about how to proceed. If so, the LADO will discuss with the Principal how and by whom the

investigation will be undertaken. In straightforward cases, the investigation would normally be undertaken by a member of the Senior Leadership Team. However, in other circumstances such as the nature or complexity of the allegation, the Principal may ask an independent investigator to undertake the investigation.

## 8 Investigation

8.1 For any internal investigation the disciplinary and investigation procedures adopted by the Trust will be followed.

8.2 The accused person will be given opportunity to answer the allegation and make representations written or in person.

## 9 Action

9.1 Definitions used to determine the outcome of allegation investigations:

- (a) **Substantiated** – if there is sufficient evidence to prove the allegation. Discuss with LADO immediately
- (b) **Malicious** – if there is sufficient evidence to disprove the allegation and evidence that there is a deliberate act to deceive there would be no further action under safeguarding. However, it may require disciplinary procedures for the person/Student making the allegations
- (c) **False** – if there is sufficient evidence to disprove the allegation there would be no further action.
- (d) **Unsubstantiated** – this is where there is insufficient evidence to either prove or disprove the allegation.

9.2 Action may be determined by the outcome of Police investigations or from the advice given at an inter-agency meeting.

9.3 It is in everyone's interests to resolve cases as quickly as possible consistent with a fair and thorough procedure.

## 10 Resignations, Settlement Agreements and references

10.1 If the accused person resigns, or ceases to provide their services, this will not prevent an allegation being followed up in accordance with this procedure.

10.2 A Settlement Agreement should not be agreed where a teacher or member of staff (including a volunteer) has:

- (a) Behaved in a way that has harmed a child, or may have harmed a child;
- (b) Possibly committed a criminal offence against or related to a child; or
- (c) Behaved towards a child or children in a way that indicates he or she would pose a risk of harm if they work regularly or closely with children.

10.3 No agreement should be reached allowing the employee to resign in order to prevent disciplinary action.

10.4 A settlement agreement that prevents the employer from making a referral to DBS when the criteria are met is likely to result in a criminal offence being committed as the Trust would not be complying with its legal duty to make the referral.

10.5 An agreed reference should not be given if the criteria have been met.

10.6 If however, the allegations were found to be false, unsubstantiated or malicious mention of the allegations should not be included in any reference.

11 **Referral to DBS and the National College for Teaching and Learning (NCTL)**

11.1 A referral to DBS must be made if the criteria in **10.1** above are met. Schools and colleges have a legal duty to refer anyone who has met the criteria, and who has been removed from working in a regulated activity, or who would have been removed if they had not left.

11.2 A referral to the NCTL should be made when the dismissal is of, or resignation in relation to allegations of abuse is against, a member of teaching staff.

12 **Record keeping**

12.1 Details of allegations that are found to be malicious should be removed from personnel records.

12.2 For all other allegations it is important that clear and comprehensive records are kept as confidential records on the personnel file.

12.3 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.