



St. Anselm's College
Edmund Rice Academy Trust

Dealing with Allegations of abuse against teachers and other staff/volunteers

Version 1.2

Mission Statement:

Our Catholic Community offers a learning environment for us to develop our God given talents and to recognize Christ amongst us. We respect the dignity of God's creation and, inspired by Gospel values, seek to serve one another.

“During the Covid pandemic part of this policy may need to be temporarily amended or suspended by the Headmaster to comply with laws, guidelines and recommendations related to the changing circumstances of the pandemic.”

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St Anselm's College recognises that it is essential that any allegation of abuse made against a teacher or other member of staff or volunteer in an education setting is dealt with fairly, quickly and consistently, in a way that provides effective protection for the child and at the same time supports the person who is the subject of the allegation.

The procedures detailed within this policy will come into effect in respect of all cases in which it is alleged that a teacher or member of school staff. (including a volunteer) 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 s/he is unsuitable to work with children.

This policy is based on statutory guidance from the Department for Education.

This policy relates to the following legislation:

The Children Act 1989

- Section 175 of the Education Act 2002 (local authorities, governing bodies of maintained schools and institutions in the further education sector)
- Section 157 of the Education Act 2002 and the Education (Independent School Standards) (England) Regulations 2010
- The Children Act 2004
- Section 11 of the Children Act 2004 (other agencies)
- Sections 141F, 141G and 141H3 of the Education Act 2002.
- Education Act 2011

KEY POINTS

- If an allegation is made against a teacher or any member of staff or volunteer the quick resolution of that allegation should be a clear priority to the benefit of all concerned. Any unnecessary delays should be eradicated.
- 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.

Allegations should be reported straight away, normally to the Headmaster or in his absence to Mrs S Cubbin, Deputy Headteacher. In the absence of the Headmaster or Deputy Headteacher or if the allegation is against the Headmaster, the allegation should be reported to the Chair of Governors, Mr. J M Greaves.

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

- 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;
- 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.

The designated LA officer (Suzanne Cottrell 0151 6664582) will be informed of the allegation.

Her first step will be to discuss the allegation with the Headmaster/Deputy Headteacher or Chair of Governors (case manager) to confirm details of the allegation and establish that it is not demonstrably false or unfounded.

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 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 will 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 will inform the accused person about the allegation 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. The case manager/Governing Body must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children at the College 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 that step. (Please see further information on suspension below).

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 will take into account that teachers 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 College 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 member of the SLT.

If the parents/carers of the child are not already aware of the allegation, they will need to be informed.

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. Parent 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 can be told in confidence.

Parents and 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 restrictions removed, they should be told to seek legal advice.

The Governing Body of the College have a duty of care to their employees. They will 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 will be advised to contact their trade union representative, if they have one, or a colleague for support.

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. The Governing Body will take particular care when employees are suspended to ensure that they are kept informed of both the progress of their case and current work-related issues. Social contact with colleagues and friends will not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

CONFIDENTIALITY

It is extremely important that when an allegation is made, the College 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 their written consent for another to do so or if a judge lifts restrictions in response to a request to do so. The provisions commenced on 1 October 2012.

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 was published could lead to the identification of the teacher by members of the public).

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;
- 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 will not prevent an allegation being followed up in accordance with this policy. 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 accused will be given a full opportunity to answer the allegation 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 substantiated on the basis of all the information available, should continue even if that cannot be done or the accused does not cooperate. It may be difficult to reach a conclusion in those circumstances, and it may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete, but it is important to reach and record a conclusion wherever possible.

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, will 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 Independent Safeguarding Authority (ISA) (Disclosure and Barring Service (DBS) from December 2012) 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.

REFERENCES

Cases in which an allegation was proven to be false, unsubstantiated, 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 per cent of cases should be resolved within one month, 90 per cent 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.**

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. In some rare cases that will require the Headmaster/Governing Body 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 Headmaster/Governing Body 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 College is/are at risk of significant harm or the case is so serious that it might be grounds for dismissal.

The Headmaster/Governing Body 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 Headmaster/Governing Body can use other strategies to avoid suspension. Based on assessment of risk, the following alternatives should be considered by the Headmaster before suspending a member of staff:

- redeployment within the College so that the individual does not have direct contact with the boy or boys concerned;
- providing an assistant to be present when the individual has contact with boys
- redeploying to alternative work in the College so the individual does not have unsupervised access to pupils;
- moving the pupils 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.

These alternatives allow time for an informed decision regarding the suspension and possibly reduce the initial impact of the allegation. This will, however, depend upon the nature of the allegation. The Headmaster will 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 dispatched within one working day, giving as much detail 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 organisation and contact details.

Children's social care services or the police cannot require the Headmaster to suspend a member of staff or a volunteer, although he should give appropriate weight to their advice. The power to suspend is vested in the Governing Body of the College who are the employers of staff at the College.

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 process. This should be done as their investigation proceeds and will enable the police to share relevant information without delay at the conclusion of their 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 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.

There is a legal requirement for employers to make a referral to the ISA (DBS from 1st December 2012) 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 ISA (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 ISA will consider whether to bar the person from working in regulated activity, which will include most work in schools and other educational establishments. Local authorities, schools, FE colleges and other bodies all have a statutory duty to make reports, and to provide relevant information to the ISA. 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 a case that a person who has been suspended can return to work, the Headmaster should consider how best to facilitate that. Most people will benefit from some help and support to return to work after a 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 Headmaster 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 College.

Equality Statement

We have carefully considered the impact of this policy on all protected characteristics as part of our ongoing process to ensure that it is fair and does not prioritise or disadvantage any pupil. This is in line with the Equality Act 2010.

This policy should be read in conjunction with Managing Allegations against staff, volunteers, foster carers and adoptive carers who work with children. Wirral LSCB FEB 2011 and Guidance 'Dealing with Allegations of Abuse against Teachers and Other Staff published by DfE in October 2012.