




# Statement of Procedures Dealing with Allegations Against Staff

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**November 2018**

<b>Signed (Chair of the Local Governing Body):</b>	
<b>Date:</b>	<b>November 2018</b>
<b>Date of Review:</b>	November 2019

*The Arbor Academy Trust reviews this policy annually. The Trustees may, however, review the policy earlier than this, if the Government introduces new regulations, or if the Trust receives recommendations on how the policy might be improved. This document is also available in other formats e.g. e-mail and enlarged print version, on request to the School Offices and is displayed on the schools' websites.*

## **1. Introduction**

Arbor Academy Trust takes its responsibility of care for its students seriously and fully endorses the principles and practice of Every Child Matters. We recognise that any possibility that a member of staff may have hurt a student must be investigated thoroughly, but in a way that does not prejudice either the student or the member of staff. Any investigation of an allegation of abuse against a member of staff must follow the objective, professional standards and routines described here.

Allegations of abuse against staff should not be dealt with under the schools general complaints procedure.

These procedures are based on:

- Working Together to Safeguard Children. A guide to inter-agency working to safeguard and promote the welfare of children (2015).
- Keeping Children Safe in Education (2018)
- Dealing with allegations of abuse against teachers and other staff. Statutory guidance for local authorities, head teachers, school staff, governing bodies and proprietors of independent schools (DfE, October 2012).

## **2. Procedures**

The person responsible for dealing with allegations of abuse against teachers and staff is the Headteacher or in the absence of the Headteacher the designated senior person. If the allegation is against the Headteacher or Child Protection Officer, the person responsible is the Chair of the Local Governing Body or the CEO of the Trust. Arbor Academy Trust has a duty of care to our employees. We will ensure that we provide effective support for anyone facing an allegation and provide the employee with a named contact if they are suspended.

## **3. Scope**

The guidance is about managing cases of allegations that might indicate a person would pose a risk of harm if they continue to work in regular or close contact with children in their present position, or in any capacity. It should be used in respect of all cases in which it is alleged that a teacher or member of staff (including volunteers) in a school or FE college that provides education for children under 18 years of age:

- 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 indicated he or she would pose a risk of harm if they work regularly or closely with children.

These behaviours should be considered within the context of the four categories of abuse: physical, sexual, emotional abuse and neglect. It is essential that any allegation of abuse made against a teacher or other member of staff or volunteer at Arbor Academy Trust is dealt with very quickly, 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.

## **4. Initial action by person receiving or identifying an allegation or concern**

The person to whom an allegation or concern is first reported should treat the matter seriously and keep an open mind.

They should not:

- Investigate or ask leading questions if seeking clarification
- Make assumptions or offer alternative explanations
- Promise confidentiality, but they can give assurance that the information will only be shared on a 'need to know basis'.

They should:

- Make a written record of the information (where possible in the child's own words), including the time, date and place of incident/s, persons present and what was said.
- Sign and date the written record and immediately report the matter to the Designated Safeguarding Lead in the school.

## **5. Initial action by the designated senior manager**

The procedures for dealing with allegations need to be applied with common sense and judgement. When informed of a concern or allegation, the designated manager should not initially investigate the matter or interview the member of staff, child concerned or potential witnesses.

They should:

- Obtain written details of the concern / allegation, signed and dated by the person receiving (not the child / adult making the allegation);
- Record any information about times, dates and location of incident/s and names of any potential witnesses;
- Record discussions about the child and/or member of staff, any decisions made, and the reasons for those decisions.

The Local Authority Designated Officer (LADO) in Waltham Forest Social Services should be informed within one working day when allegations appear to meet the criteria listed in (3) Scope and provide any further details of the allegation and the circumstances in which it was made:

Email: [LADO.walthamforest.gov.uk](mailto:LADO.walthamforest.gov.uk)

If the allegation is not patently false and there is cause to suspect that a child is suffering or is likely to suffer significant harm, the LADO will immediately refer to children's social care and ask for a strategy discussion in accordance with Working Together to Safeguard children to be convened straight away. In those circumstances the strategy discussion should include the local authority designated officer and the Child Protection Officer.

If there is not cause to suspect that "significant harm" is an issue, but a criminal offence might have been committed, the local authority designated officer should immediately inform the police and convene a similar discussion to decide whether a police investigation is needed. That discussion will also involve the school and any other agencies involved with the child.

## **6. Action following initial consideration**

Where the initial consideration decides that the allegation does not involve a possible criminal offence it will be for the Child Protection Officer to deal with it in consultation with the CEO or the Local Governing Body. In such cases, if the nature of the allegation does not require formal disciplinary action appropriate action should be instituted 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. When further investigation is required to inform consideration of disciplinary action the Child Protection Officer and the Local Governing Body should discuss who will undertake that with the LADO.

The investigating officer should aim to provide a report to the employer with 10 working days.

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 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;
- 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.

On receipt of the report of the disciplinary investigation, the Child Protection Officer and the School Governors should consult the LADO, and decide whether a disciplinary hearing is needed with two working days. If a hearing is needed it should be held within 15 working days. In any case in which children's social care has undertaken enquiries to determine whether the child or children are in need of protection, the Local Governing Body and CEO should take account of any relevant information obtained in the course of those enquiries when considering disciplinary action.

## **7. Supporting those involved**

The School DSL should inform the accused person about the allegation as soon as possible after consulting with LADO. The School DSL should provide them with as much information as possible at the time. However, where a strategy discussion is needed, or police or local authority's social care services need to be involved, the School DSL should not do that until those agencies have been consulted, and have agreed what information can be disclosed to the person.

Employers have a duty of care to their employees. They should act to manage and minimise stress inherent in the allegations and disciplinary 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 local authority 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 this is provided by the employer. The Headteacher/School DSL 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.

## **8. Confidentiality**

The Headteacher/School DSL will 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.

## **9. Resignations and ‘compromise agreements’**

The fact that a person tenders his or her resignation or ceases to provide their services must not prevent an allegation being followed up in accordance with these procedures. By the same token settlement agreements, by which a person agrees to resign if the school agrees not to pursue disciplinary action, must not be used in these cases. A referral to the DBS must be made if the criteria are met (Action on Conclusion of a Case).

## **10. 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 reinvestigation 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.

## **11. 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

## **12. Timescales**

All allegations must be investigated as a priority to avoid any delay. It is expected that 80% 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. 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 school to deal with it, although if there are concerns about child protection, the Headteacher /School DSL should discuss with the LADO. In such cases, if the nature of the allegation does not require formal disciplinary action, the school 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.

## **13. 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 cases that will require the Headteacher/ School DSL to consider suspending the accused until the case is resolved. 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 the 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

If the Headteacher considers immediate suspension is necessary, the rationale and justification for such a course should be agreed and recorded by the Headteacher/ School DSL and the LADO. This should also include what alternatives to suspension have been considered and why they were rejected.

Where it is 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. At the point of suspension the person should be informed who their named contact within the school is and provided with their contact details.

#### **14. 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 names in the allegation are in need of protection or services, so that information obtained in the course of those enquiries which is relevant to a disciplinary case can be passed to the employer without delay.

#### **15. Action following a criminal investigation or a prosecution**

The police or the Crown Prosecution Service (CPS) should inform the school 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 a 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.

#### **16. Action on conclusion of a case**

If the allegation is substantiated and the person is dismissed or the school ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the LADO should discuss with the case manager and their personnel adviser whether to refer the case to the ISA (DBS from December 2012) for consideration of inclusion on the barred lists; or (for teachers) to the Department of Education.

There is also 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. Local authorities and 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 a case that a person who has been suspended can return to work, the school 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 school 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.

### **17.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 the 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 person responsible.